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FISCAL IMPACT REPORT

SPONSOR Pettigrew/Dow/Lord/ **ORIGINAL DATE** 2/6/2022
Castellano **LAST UPDATED** _____ **HB** 196
SHORT TITLE No Reversion of Law Enforcement Fund **SB** _____
ANALYST Rabin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY22	FY23	FY24		
(\$18,480.0)	(\$12,458.6)	(\$13,987.9)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Conflicts with House Bill 141, Senate Bill 3

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 196 removes the requirement that balances in the law enforcement protection fund (LEPF) in excess of \$100 thousand revert to the general fund at the end of the fiscal year, and specifies that funds in the LEPF shall not revert to the general fund.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The LEPF intercepts general fund revenue and redirects it to distributions to local law enforcement agencies, the New Mexico Law Enforcement Academy, and the Department of Public Safety (DPS). Under current law, remaining balances in excess of \$100 thousand at the end of the fiscal year revert to the general fund, but HB196 would cut off this general fund revenue stream. The fiscal impact of this change is therefore considered a recurring reduction in general fund revenue.

This bill has no effective date, and is anticipated to take effect 90 days after adjournment of the Legislature, before the end of FY22. Therefore, HB196 would result in a significant reduction in general fund revenue in FY22, a total of \$18.5 million. In combination with changes to LEPF distributions under 2020 HB184, which increase LEPF distributions in FY23, LFC staff project HB196 will reduce general fund revenue by \$12.5 million in FY23 and \$14 million in FY24. For more details, see Attachment 1.

HB196 does not provide for any increased distributions from or uses of the LEPF. Without changes in the fund's uses, the fund's remaining balance will grow significantly in future years, reaching a total projected balance of \$31 million at the end of FY23 and \$77.7 million by the end of FY26. Without changes in distributions or uses of the fund, these funds would remain unused. For more details, see attachment 1.

SIGNIFICANT ISSUES

HB196 has a significant, recurring negative impact to the state general fund of \$18.5 million in FY22, \$12.5 million in FY23, and \$14 million in FY24. The significant revenues from LEPF reversions have contributed to balancing the budget during oil and gas revenue declines.

HB196 is further expected to result in significant unused balances in the LEPF that are anticipated to approach \$80 million by the end of FY26 and continue to grow in future fiscal years.

DPS's Law Enforcement Academy Board is responsible for overseeing police officer training and conduct but has no power to enforce compliance with its reporting requirements or investigations, and often faces issues ensuring law enforcement agencies fulfill their statutory reporting obligations. DPS has also faced difficulties obtaining data on crime reports from local law enforcement agencies, despite statutory requirements agencies make such reports. LFC has previously noted that making law enforcement agencies' distributions from the LEPF contingent on compliance with these statutory requirements could improve the board's ability to fulfill its mission and DPS's ability to effectively report on crime trends in New Mexico.

CONFLICT

HB196 conflicts with House Bill 141 and Senate Bill 3, duplicate bills that increase distributions from the LEPF and redirect all remaining balances over \$100 thousand from the general fund to the peace officers' survivors fund.

OTHER SUBSTANTIVE ISSUES

Current Allocations and Allowable Uses of LEPF. In FY21, LEPF made allocations to all 33 county sheriffs and 95 municipal police departments around the state, as well as 10 tribal police departments and six university police departments. Currently, by statute (Section 29-13-7 NMSA 1978), the allowable uses of the LEPF include

- Maintaining the balance of the peace officers', New Mexico mounted patrol members', and reserve police officers' survivors fund at a minimum amount of \$350 thousand;
- For the law enforcement academy, providing tourniquet and trauma kits and training on their use (from a specific distribution of \$24.5 thousand);
- For DPS, overtime, travel, fuel, per diem, and ammunition expenses related to governor-

ordered special deployments (from a specific distribution of \$2 million under 2020 HB184, effective in FY23);

- For law enforcement agency beneficiaries:
 - The repair and purchase of law enforcement apparatus and equipment, including the financing and refinancing thereof, that meet minimum nationally recognized standards;
 - The purchase of law enforcement equipment, including protective vests, for police dogs;
 - Expenses associated with advanced law enforcement planning and training;
 - School resource officer training for county sheriffs and municipal and school district police departments (from a specific per-officer allocation under 2020 HB184, effective in FY23);
 - Complying with match or contribution requirements for the receipt of federal funds relating to criminal justice programs;
 - No more than 50 percent of the replacement salaries of law enforcement personnel participating in basic law enforcement training; and
 - Contingent on the availability of funding and until June 30, 2021, a law enforcement officer retention payment in the amount of \$7,500; provided that
 - The distribution is requested by a municipality or county law enforcement agency that on January 1, 2018, had a staffing vacancy rate of at least 10 percent to retain a law enforcement officer who is certified in accordance with the Law Enforcement Training Act and has at least 20 years of actual service credit earned under a municipal police member coverage plan as determined by the public employees retirement association;
 - The municipality or county law enforcement agency provides \$7,500 in matching funds to the law enforcement officer; and
 - The distribution and the matching funds paid to a law enforcement officer shall not constitute the officer's base salary or wages and shall not be considered to be salary or otherwise be used to determine a pension for the purposes of the Public Employees Retirement Act.

ALTERNATIVES

Rather than leaving significant funds in the LEPF that cannot be expended, the Legislature may wish to consider directing some of these funds to other purposes to support New Mexico law enforcement officers. For example, House Bill 86 would create the law enforcement retention fund to provide retention differential payments to law enforcement officers statewide at five-year intervals, but is not fully funded for an initial five-year cycle and would not receive recurring funding. Residual LEPF benefits could be used for a nonrecurring appropriation or to provide a recurring funding stream to this fund.

Attachments

1. LEPF Sources and Uses, FY20 – FY26

ER/acv/al

Law Enforcement Protection Fund Projected Revenues & Expenditures
 FY20 to FY26

	ACTUALS	ACTUALS	PROJECTED	PROJECTED	PROJECTED	PROJECTED	PROJECTED
	FY20	FY21	FY22	FY23	FY24	FY25	FY26
BEGINNING BALANCE	\$ 100,000	\$ 100,000	\$ 100,000	\$ 18,579,953	\$ 31,038,597	\$ 45,026,541	\$ 60,532,914
REVENUE							
Fees, Licenses, Penalties, and Taxes	\$ 19,894,279	\$23,149,303	\$ 24,073,082	\$ 25,311,144	\$ 26,840,444	\$ 28,358,873	\$ 30,022,166
TOTAL REVENUE	\$ 19,894,279	\$23,149,303	\$ 24,073,082	\$ 25,311,144	\$ 26,840,444	\$ 28,358,873	\$ 30,022,166
EXPENDITURES							
Base Distribution	\$ 5,289,943	\$ 5,790,464	\$ 5,593,129	\$ 5,593,300	\$ 5,593,300	\$ 5,593,300	\$ 5,593,300
Additional Distribution due to 2020 HB184 (FY23 Implementation)	\$ -	\$ -	\$ -	\$ 7,259,200	\$ 7,259,200	\$ 7,259,200	\$ 7,259,200
TOTAL EXPENDITURES	\$ 5,289,943	\$ 5,790,464	\$ 5,593,129	\$ 12,852,500	\$ 12,852,500	\$ 12,852,500	\$ 12,852,500
ENDING BALANCE	\$ 14,704,336	\$17,458,839	\$ 18,579,953	\$ 31,038,597	\$ 45,026,541	\$ 60,532,914	\$ 77,702,580
General Fund Reversion Amount	\$ 14,604,336	\$17,358,839	\$ -	\$ -	\$ -	\$ -	\$ -

Source: SHARE, DFA website, DFA audits, LFC files (LFC economist projections as of November 3, 2021)

Note: Law enforcement protection fund (LEPF) revenues are ten percent of all money received for fees, licenses, penalties and taxes from life, general casualty and title insurance business (except for money received from health insurance) collected by the New Mexico Public Regulation Commission. Under current law, balances in excess of \$100 thousand revert to the general fund at the end of the fiscal year.

Projection as of 2/6/2022