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

SPONSOR HAFC **ORIGINAL DATE** 1/21/09 **LAST UPDATED** 1/29/09 **HB** 10/HAFCS

SHORT TITLE Reduce Certain General Fund Appropriations **SB**

ANALYST Fernandez/Francis

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	**FY10**		
($163,926.3)		Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

This bill reduces general fund appropriations in Laws 2008, Chapter 3 (General Appropriation Act) in Section 4 by various amounts; reduces general fund compensation and other distributions contained in Section 8; provides authority for Department of Finance and Administration to reduce all other appropriations such as other state funds, internal service/interagency transfers and federal funds as necessary and provides for maximum additional budget adjustment authority in FY09. This bill contains an emergency clause so the changes will become effective upon passage.

FISCAL IMPLICATIONS

Section 1

Subsections A and B reduce general fund appropriations in Section 4 of the 2008 General Appropriation Act by a total of $126,330.8. Appropriations are made by agency by program and by category. As such, this bill directs the reductions to be made in the same manner. Exceptions to the reductions are the Lt. Governor and the Medicaid appropriation at Human Services Department. Reduction amounts vary by agency as follows:

5.0 percent - State Personnel Board, Public Employee Labor Relations Board, Regulation and Licensing Department, Energy, Minerals and Natural Resources Department, State Engineer and Department of Environment

3.9 percent – Economic Development Department
3.8 percent – Public Education Department
3.0 percent – Taxation and Revenue Department, Cultural Affairs Department, Aging and Long-Term Services Department
2.4 percent – Veterans' Services Department
2.2 percent – Public Defender Department
2.1 percent – Workforce Solutions Department
1.9percent– Corrections Department, Department of Public Safety, District Attorneys, Administrative office of the District Attorney, the Public Defender, Children, Youth and Families Department
1.8 percent – Division of Vocational Rehabilitation
1.6 percent – Developmental Disabilities Planning Council
1.4 percent – District Courts and related agencies
2.5 percent – All other agencies

Subsection C – reduces the general fund appropriation in Section 4 of the General Appropriation Act to the Medical Assistance program and the Medicaid Behavioral Health program of the Human Services Department by $7,984.8 or 1 percent. The most recent projections (12/8/2008) for the Medicaid program show a surplus of general fund revenue of about $400 thousand. The department will have to reduce expenditures in FY09 to address this reduction. However, in the recently completed evaluation of the Medicaid managed care program, LFC staff found that significant savings could be realized by reducing the rates paid to physical health managed care organizations (MCOs). Over three years (FY06-FY08), MCOs have accrued more than $107 million not anticipated by their contracts with the state. The contracts require MCOs to spend 85 percent of revenue (i.e rates) on medical expenses. The evaluation found that MCO medical expenses averaged about 81 percent over the period. By reducing payments for administrative expenses, HSD could reduce total expenditures while minimizing the impact on services.

It seems likely that the federal fiscal stimulus package will include an enhanced federal matching rate, probably around 5 percent. This will far more than offset the general fund reduction in this subsection.

Subsection D – further reduces the general fund appropriation in Section 4 of the General Appropriation Act to the medical assistance program of the Human Service Department in the other category by $24,550.0. The companion transfer bill eliminates the distribution of the tobacco settlement payment to the tobacco settlement permanent fund and appropriates $24,550.0 from the tobacco settlement program fund to the Medical Assistance Division of HSD to offset this reduction. The $24,550.0 appropriation in the companion bill includes $22,450.0 that would have been distributed to the permanent fund, $700.0 of fund balance, and $1,400.0 that is available after the repeal of Laws 2008, Chapter 50 (also by separate legislation).

Subsection E – reduces the general fund appropriation in Section 4 of the General Appropriation Act for public school transportation by $4,000.0.

Laws 2008, 2nd S.S., Chapter 5 (House Bill 2) appropriated $4,000.0 for supplemental funding to school districts for anticipated increases in school bus fuel costs based on higher than anticipated diesel fuel costs projected in the summer of 2008. PED projected a need of increased funding of approximately $4,000.0 for the remainder of FY09. This increase in funding assumed an average wholesale price of $3.71/gallon for the remainder of FY09, an increase of approximately $1.05 over the original FY09 appropriation of $2.66/gallon wholesale. At present, the wholesale price of diesel is approximately $1.80/gallon and is expected to remain relatively low for the remainder of FY09. At this price, the $4,000.0 appropriation is not necessary; however the appropriation from the special session was already distributed to school districts. Therefore this bill reduces the transportation distribution by the same amount of $4,000.0.

Subsection F – further reduces each agency and institution in Section 4 of the General Appropriation Act of 2008 by an amount equal to 2.5 percent of that agency's or institution's allocation of the compensation appropriation made in Section 8 of the General Appropriation Act of 2008. According to Department of Finance and Administration, the compensation appropriations in Section 8 were allocated to state agencies and higher education institutions at the beginning of FY09. The allocation amounts are currently incorporated into the agency operating budgets. Language directs Department of Finance and Administration and the Higher Education Department to make the reductions based on the same methodology used to allocate the compensation appropriations.

Language is included to clarify that agencies shall use cash balances, vacancy savings and other funding sources, including additional BAR authority to provide salary increases as appropriated by the Legislature in Laws 2008.

Subsection G – provides Department of Finance and Administration with authority to not reduce an appropriation if the following three conditions are met:

1. The appropriation is to Department of Finance and Administration, Public Education Department (PED) or the Higher Education Department (HED).
2. If the purpose of the appropriation is to distribute the money to another public entity or association of public entities named in the appropriation or if the money was appropriated for goods, services or memberships provided by another public entity named in the appropriation.
3. If the money was distributed prior to January 1, 2009.

According to Department of Finance and Administration, approximately $43.7 cannot be recovered and thus not counted in the solvency plan.

The estimated impact of this provision to PED and HED is not known at this time but is expected to be minimal.

Subsection H – this section provides the State Budget Division of the Department of Finance and Administration with the flexibility to reduce all appropriations under the other state funds, internal service/interagency transfers and federal funds columns when necessary to match the general fund reduced appropriations.

<u>Section 2:</u>

This section provides additional FY09 Budget Adjustment Authority (BAR) for state agencies to allow movement of funds within program from one category to another; allows agencies to request transfers between programs and allows increase authority up to 5 percent.

Currently, agencies may request transfers into personal services and employee benefits and may request transfers out of personal services and employee benefits if the cumulative effect of the transfer plus all previous transfers out of personal services and employee benefits does not exceed two percent of the total appropriation to that category. Also, only a few agencies have authority to request transfers between programs and the maximum amount an agency can increase their budget is 4 percent.

This additional authority provides state agencies with maximum flexibility for the remainder of FY09 to manage the reductions contained in this bill.

SIGNIFICANT ISSUES

The December 2007 consensus revenue estimates supported $6 billion of appropriations in FY09 without drawing from reserves. There was authority to transfer from other general fund reserves in the event of a shortfall of revenues in FY08 but not for FY09. As the economy has deteriorated and oil and natural gas revenues have fallen significantly, the December 2008 revenue estimate now projects a deficit for FY09 of $454 million. Since half of the fiscal year has passed, it is necessary that the Legislature and the governor move quickly to address this shortfall. LFC has proposed a four-pronged approach that uses other state funds and reserves, a one-time fix to corporate income tax estimated payments, and appropriations reductions that will address the fiscal solvency while maintaining a responsible reserve level of 10.2 percent at the end of FY09. Maintaining a high reserve level in the current fiscal year is critical as the economy has not shown any signs of improving and downside risks to the revenues overwhelm upside risks.

This bill along with its companion bills will address the current $454 million deficit (based on the December 2008 revenue estimate) and maintain approximately 10 percent reserves. LFC believes these actions are necessary to avoid possible legal issues regarding interfund transfers (Section 6-4-6 NMSA 1978) and to comply with a constitutional mandate that appropriations not exceed revenues.

ADMINISTRATIVE IMPLICATIONS

Department of Finance and Administration will be required to reduce the appropriations and adjust agency allotment distributions accordingly.

Separately, the LFC recommended a supplemental appropriation in the amount of $650.0 to Department of Finance and Administration to provide additional assistance with FY09 budget shortfalls that result from reductions contained in this bill.

COMPANIONSHIP

There are three companion bills that are part of a four-pronged solvency solution proposed by LFC.

- A bill that sets an April date for estimated corporate income tax payments, correcting an oversight in a 2003 bill modifying the estimated payment calculation and which accelerates collections that would otherwise be part of the final payment
- A bill which transfers money from various state funds to the general fund, amends the distribution of the annual tobacco payment to the tobacco settlement program fund, appropriates from the tobacco settlement program fund and the federal TANF funds for Medicaid

- A bill that reauthorizes $104.9 million of outstanding capital outlay appropriations for projects that are several years old and have had no activity whatsoever.

The General Appropriation Act of 2009 will include FY09 supplemental appropriations and supplemental FY09 BAR authority thus allowing another opportunity to consider agencies with additional needs and flexibility to manage the reductions in this bill.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The state will incur a budget deficit in violation of Article IX of the New Mexico Constitution.

CTF/mt