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

		ORIGINAL DATE	01/27/09		
SPONSOR	SFC	**LAST UPDATED**	02/02/09	**HB**	
SHORT TITLE	Fund Transfers and Appropriation Cuts			**SB**	79/SFCS
				ANALYST	Fernandez/Francis/ Earnest/Gutierrez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	**FY10**		
$22,450.0		Nonrecurring	Tobacco Settlement Program Fund
$2,100.0		Nonrecurring	Tobacco Settlement Program Fund – Cash balance
$35,753.6		Nonrecurring	ACF – Education “lockbox”
$22,100.0		Nonrecurring	Federal Funds
($28,081.0)		Nonrecurring	General fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Laws 2008, Chapter 3 and Laws 2008, Chapter 50
Companion to SB80, HB8

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	**FY10**	**FY11**		
$22,450.0	$22,450.0		Nonrecurring	Tobacco Settlement Program Fund
($22,450.0)	($22,450.0)		Nonrecurring	Tobacco Settlement Permanent Fund
($1,640.0)	($3,296.4)		Nonrecurring	Fire Protection Fund
($14,500.0)			Nonrecurring	College Affordability Endowment Fund
($1,750.0)			Nonrecurring	Public Election Fund
($800.0)			Nonrecurring	Public Pre-Kindergarten Fund

($500.0)			Nonrecurring	Juvenile Continuum Fund
($1,500.0)			Nonrecurring	Day-care fund
($8,000.0)			Nonrecurring	Telecommunications Access Fund
($1,000.0)			Nonrecurring	Corrections Dept. Intensive Supervision Fund
($5,000.0)			Nonrecurring	Worker's Compensation Fund
($3,000.0)			Nonrecurring	Juvenile Community Corrections Grant Fund
($500.0)			Nonrecurring	NM Youth Conservation Corps Fund
($1,000.0)			Nonrecurring	Board of Nursing Fund
($600.0)			Nonrecurring	Higher Education Endowment Fund
($1,500.0)			Nonrecurring	Electronic voting systems fund
($400.0)			Nonrecurring	Insurance Fraud Fund
($100.0)			Nonrecurring	Motorboat Fuel Tax Fund
($1,000.0)			Nonrecurring	AOC Water Adjudication
($58,400.0)			Nonrecurring	Public School Capital Outlay
($5,500.0)			Nonrecurring	Taxable Severance Tax Bond Proceeds
($55,700.0)			Nonrecurring	General Fund – Tax stabilization fund
$22,100.0			Nonrecurring	General Fund – TAA Suspense
$107,590.0	$3,269.4		Nonrecurring	General Fund – Appropriations Account

(Parenthesis ( ) Indicate Revenue Decreases)

Companion to other LFC sponsored legislation dealing with FY09 solvency

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Substitute

The Senate Finance Committee Substitute for Senate bill 79 proposes the following:

- Effective 2.5 percent reduction of FY09 appropriations for the legislative branch and appropriations in Laws 2008, Chapter 6 (SB165)
- 2.5 percent reduction in Laws 2009, Chapter 1 section 1.
- Transfer of $105.5 million from state funds identified by LFC analysts to the general fund
- Distribution of 100 percent of annual payments from participating tobacco manufactures to the Tobacco Settlement Program Fund
- Freezing distribution schedule of fire protection fund at FY08 level
- Reducing appropriations enacted in the 2008 special session from $32.5 million to $5.5 million
- $22.1 million appropriation from the federal Temporary Assistance for Needy Families (TANF) program to Human Services Department (HSD) for transfer to the Tax Administration Act (TAA) suspense fund for payment of working families tax credits.
- $35.8 million appropriation from that portion of the appropriation contingency fund (ACF) set aside for implementing and maintaining education reform to the state equalization guarantee formula for distribution to the public schools
- Transfer of $55.7 million from the tax stabilization reserve to the general fund appropriation account for meeting FY09 appropriations
- Repeals Laws 2008, Chapter 50, Section 1 (HB546) which appropriated any funds in excess of projected revenues to the tobacco settlement program fund.

Sections 9 and 10, which appropriate funds from the tobacco settlement program fund and the ACF, are contingent on companion legislation that reduces overall general fund appropriations enacted in the general appropriation act of 2008.

All sections will be effective upon passage and signing due to the emergency clause. Section 10 requires a declaration from the governor that current year revenues will not be sufficient to cover current year appropriations.

FISCAL IMPLICATIONS

Section 1 reduces general fund appropriations contained in Laws 2008, Chapter 1 (Feed Bill) for permanent legislative offices by 2.5 percent except for the appropriation for legislative information systems in Section 9 and appropriations for Legislative Council Service operations, pre-session expenses, and interim expenses (Section 3(a),(b) and (c)) which are cut by 3.2 percent. The legislative council service is given authority to apply the reduction where needed to effectuate government efficiency except for the legislative finance committee which is cut 2.5 percent. This section also cuts compensation included in Laws 2008, Chapter 3, Section 8, 2.5 percent. The total reduction is $371.3 thousand.

LEGISLATIVE BRANCH GENERAL FUND RECURRING FISCAL YEAR 2009				
Agency	FY09 HB1	FY09 Reduction	% Reduction	FY09 Adjusted Budget
		-2.5%		
Legislative Council Service	5,941.0	(190.1)	-3.2%	5,750.9
Legislative Information System	678.3	(21.7)	-3.2%	656.6
Legislative Council Service(Pre-session Expenses)	552.3	(17.7)	-3.2%	534.6
Interim Expenses	1,036.0	(33.2)	-3.2%	1,002.8
Legislative Finance Committee	4,346.5	(108.7)	-2.5%	4,237.8
TOTAL	**$ 12,554.1**	**$ (371.3)**	**-3.0%**	**$ 12,182.8**

Section 1(d) reduces the appropriation from Laws 2009, Chapter 1 for 2009 legislative session expenses by 2.5 percent or $208.2 thousand.

Section 2 reduces general fund appropriations that have not been expended as of the passage of this bill contained in Laws 2008, Chapter 6 (Senate Bill 165 – Junior) by 7.3 percent for a total of $509.6 thousand. According to DFA, this takes into account that most of the expenditures for SB165 have already been expended and cannot be reduced. Reducing by 7.3 percent for the remaining six months of the fiscal year is equivalent to reducing the total appropriated by SB165 by 2.5 percent.

Section 3 give DFA the ability to reduce allotments to state agencies and elected officials, in the case of any bill including this one requiring the reduction of general fund appropriations. DFA needs the flexibility to capture future allotments to fund reductions in the appropriation. In the case of the SB165 appropriations, which were allotted on July 1, 2008, for FY09, the allotments of other appropriations to an agency receiving an SB165 appropriation will be reduced by DFA.

Section 4 transfers cash balances from various state funds. LFC staff reviewed the balances of all the funds to identify money that is no longer required for the intended purpose. The following table illustrates the funds and amounts transferred to the general fund for the purpose of meeting appropriations from the general fund.

College affordability endowment fund. The college affordability endowment fund distributes funds annually to the college affordability scholarship fund based on annual income from investment. Until fifty percent of the annual income from investment of the college affordability endowment fund is equal to or exceeds two million dollars, an annual distribution of two million dollars shall be made from the college affordability endowment fund to the college affordability scholarship fund. There will be no impact on scholarships until at least FY2013. The LFC recommendation for FY10 includes an increase of $500.0 thousand, or 8.3 percent, in the general fund recurring appropriation for the work study program that will allow more need-based student financial aid and any future reduction from the college affordability scholarship distribution can be addressed through general fund appropriations.

Public Election Fund. This fund, administered by the Public Regulations Commission, is used to finance the election campaigns of the PRC and certain judgeships. The fund should receive enough to replenish in time for the next election (June 2010) from insurance premium taxes, utility and carrier inspection fees, and inspection and supervision fees.

Pre-Kindergarten Fund. This fund is administered by Children Youth and Families Department to carry out the provisions of the pre-Kindergarten Act. The fund is non-reverting and has accumulated a balance.

Juvenile Continuum Grant Fund. Administered by CYFD, this fund is used to award grants to juvenile continuums for non-secure alternatives to detention for juveniles. The fund is non-reverting and has accumulated a balance.

Daycare fund. All balances in the day care fund are appropriated to CYFD to implement the income-eligible day care program under the social services block grant Title XX. The fund is non-reverting and has accumulated a balance.

Telecommunications Access Fund. The Commission for the Deaf and Hard of Hearing is responsible for administering the Telecommunications Access Act (Section 63-9F-12 NMSA 1978), including the telecommunications access fund. Annual revenue for the fund is generated by a surcharge of 0.33 percent on the customer gross telephone charge. Revenue in FY10 should be more than $3.6 million. The FY06 audit, the most recent available, shows a fund balance of $8.8 million. With subsequent appropriations and likely reversions to the fund, the LFC staff estimates a fund balance as of June 30, 2008, of $8.7 million. In addition, the October cash balance report for CDHH funds shows a balance of about $9.5 million. After the proposed sweep and proposed FY10 budget recommendation, the balance in the fund should be about $500 thousand.

Corrections Department Intensive Supervision Fund. These funds are collected from fees paid by parolees who require and are assigned intensive supervision. The fund has accumulated approximately $1 million, according to NM Corrections Department. The fund is used for parole and probation purposes and NMCD has not targeted these funds for any special purpose as the parole and probation operating account is fully funded. NMCD’s FY09 budget reduction was smaller than it otherwise would have been to allow for this transfer.

Workers Compensation Fund. The Workers Compensation Administration projects the fund balance to be $9.7 million at the end of FY09. WCA reports workers' compensation assessment growth was 12.9 percent in FY08. This is partly due to the one-time collection of overdue fees from New Mexico state government and Lowe's Home Centers, Inc. The increase followed four years of decreasing assessments, from 8.9 percent in FY04 to 2.6 percent in FY07. New Mexico employment is expected to be flat in FY09. Based on this information, fund balances are unlikely to grow significantly in FY09.

Juvenile Community Corrections Fund. CYFD uses this fund to make grants to local governments and private organizations to provide community corrections programs. Cash balances have accumulated due to under utilization.

Youth Conservation Corps. This fund is funded by a distribution from the governmental gross receipts tax revenue. The fund is used to support YCC activities but are not currently being used by the agency. The transfer of $500 thousand leaves the fund with a balance of $297 thousand. This transfer was also recommended by the executive.

Board of Nursing Fund. This fund is funded by license fees and renewals and has experienced an increase in foreign applications creating a windfall for the board. Use of these balances will not impair the board or result in a loss of service.

Higher Education Endowment Fund. There is over $600 thousand available because certain public post-secondary institutions have not raised sufficient match dollars required to draw down funds.

Electronic Voting Machine Fund. This fund is managed by the state Board of Finance and is used to loan money to counties for the purchase of electronic voting machines. There are currently no plans for any more purchases of electronic voting machines.

Motor Boat Fuels Tax Fund. This fund is used for dock repairs and are funded by a tax on fuel for boats. The funds are not currently being used by the state parks and recreation division of Energy Minerals and Natural Resources Department and was also recommended by the executive.

Proposed Distribution of Cash Balances

	FY09 Balance 10/31/08	Less FY09 Budgeted Amount	Less FY09 Proposed Sweep	Plus Distribution/Revenue FY10	Less FY10 Budgeted Amount	FY10 Ending Balance 6/30/10
College Affordability Endowment Fund	$77,588,421	$2,000,000	$20,000,000	$1,375,000	$2,000,000	$54,963,421
Public Election Fund	$2,612,000	$450,000	$1,750,000	$1,500,000	$1,500,000	$412,000
Pre-Kindergarten Fund	$2,203,040	$0	$800,000	$0	$0	$1,403,040
Juvenile Continuum Grant Fund	$1,141,222	$0	$500,000	$0	$0	$641,222
Daycare Fund	$2,356,716	$0	$1,500,000	$0	$277,000	$579,716
Telecommunications Access Fund*	$9,487,680	$587,000	$8,000,000	$3,653,500	$4,031,000	$523,180
Corrections Dept. Intensive Supervision Fund**	$6,313,727	$5,000,000	$1,000,000	$30,000,000	$30,000,000	$313,727
Workers' Compensation Fund	$9,243,325	$0	$5,000,000	$312,200	$0	$4,555,525
Juvenile Community Corrections Fund	$4,280,323	$0	$3,000,000	$0	$0	$1,280,323
Youth Conservation Corps***	$5,676,000	$3,900,000	$500,000	$2,941,000	$3,920,000	$297,000
Board of Nursing Fund	$3,720,116	$1,967,400	$1,000,000	$2,530,600	$2,486,200	$797,116
Higher Education Endowment Fund	$5,858,685	$0	$600,000	$0	$0	$5,258,685
Water Rights Adjudication (AOC)	$1,447,488	$0	$1,000,000	$0	$0	$447,488
Electronic Voting Machine Fund	$3,386,031	$0	$1,500,000	$0	$0	$1,886,031
Insurance Faud Fund	$1,798,533	$0	$400,000	$0	$0	$1,398,533
Motor Boat Fuels Tax Fund	$250,797	$0	$100,000	$0	$0	$150,797
Total FY09 Sweep			**$46,650,000**			

Source: LFC files and DFA October 2008 Cash Balance Report
*Balance is derived from adding two agency funds together; $20.7 million and negative $11.1 million as of 10/31/08
**Held within the Probation & Parole Operating Fund
***FY09 balance based on S-10 sheet from FY10 Budget Request.

Section 4(c) transfers $58.4 million from the public school capital outlay fund to the general fund. $90 million was appropriated in 2006 for high priority school projects (Laws 2006, Chapter 111, section 66). The transfer amount comes from fund balances in various categories identified by the Public School Capital Outlay Council which is made up of the director of LFC, the director of LCS, the secretary of DFA, a representative from the Governor's office, the secretary of the Public Education Department, the president of the New Mexico school boards association, the director of the Construction Industries Division, and the president of the Public Education Commission.

Detail of Public School Capital Outlay Recommendation:

PSCOC Local Match Advance Repayment Estimates	$ 100,000
PSCOC DCP Program Reversions	$ 10,300,000
PSCOC High Energy Efficiency Reversions	$ 1,600,000
PSCOC Project Reversions	$ 39,500,000
PSCOC Project Reversions June 2009	$ 6,900,000
TOTAL	**$ 58,400,000**

Although a work in progress, the federal stimulus being discussed in Washington seems likely to include a significant public school infrastructure funding proposal of approximately $14 billion with perhaps one percent of that coming to New Mexico.

Section 4(d) transfers $5.5 million from taxable severance tax bond proceeds that had been issued for public school infrastructure (SB9) projects that are completed in FY09 and prior years. $1.7 million of unused tax exempt severance tax bond proceeds remain available for appropriation by the public school capital outlay council. Board of Finance reports that they have checked the language with their bond counsel and confirmed that this is an allowable use because the proceeds are from bonds already paid and discharged so there are no bond holder issues and the proceeds are from taxable bonds so federal rules governing tax exempt bonds do not apply.

Section 5 creates a new distribution from the tobacco settlement permanent fund of 50 percent of the annual revenue to the tobacco settlement program fund for FY09 and FY10. For these two years, the entire annual master settlement agreement payment from the participating tobacco manufacturers will be distributed to the tobacco settlement program fund.

At the October 2008 hearing of the Tobacco Settlement Revenue Oversight Committee, LFC staff presented a forecast of annual payments by participating tobacco manufacturers showing that the payment would be $44.9 million in FY09 and FY10. Under current law, half of each payment is distributed to the program fund and the other half to the permanent fund corpus. This proposal distributes the entire payment to the program fund for FY09 and FY10.

Section 6 freezes transfer from the fire protection fund to the fire protection grant fund for two years (FY09 and FY10). Laws 2006, Chapter 103 (HB 497), set aside all growth in the fire protection fund for distribution to fire districts. Laws 2007, Chapter 152 (HB 466), eliminated the general fund reversion of the fire protection fund by fiscal year 2021. Over the 15-year period, the bill increased distributions to the fire protection grant fund to be allocated to fire districts by the grant council. By fiscal year 2021, the grant council will be allocating $24.6 million to fire districts to improve fire protection. This LFC sponsored bill proposes freezing the distribution schedule of the fire protection fund at FY08 levels for two years (FY09 and FY10). The revenue stream to the fire protection grant fund is used to pay debt service on bonds but as this is not decreasing the current distribution, this should not impact any existing bonds. The proposed distribution is shown in the table below:

Seventeen-year Phase-out of the General Fund Reversion

	Fund Balance after Distributions and Appropriations		Current Law			Proposed		Difference	
		Percent	Grant Fund Distribution	General Fund Reversion	Percent	Grant Fund Distribution	General Fund Reversion	Grant Fund Distribution	General Fund Reversion
FY06 Actual	$24,600,000	0	$0	$24,600,000	0	$0	$24,600,000	$0	$0
FY07	$24,600,000	6.70%	$1,648,200	$22,951,800	6.70%	$1,648,200	$22,951,800	$0	$0
FY08	$24,600,000	13.40%	$3,296,400	$21,303,600	13.40%	$3,296,400	$21,303,600	$0	$0
FY09	$24,600,000	20.10%	$4,944,600	$19,655,400	13.40%	$3,296,400	$21,303,600	-$1,648,200	$1,648,200
FY10	$24,600,000	26.80%	$6,592,800	$18,007,200	13.40%	$3,296,400	$21,303,600	-$3,296,400	$3,296,400
FY11	$24,600,000	33.50%	$8,241,000	$16,359,000	20.10%	$4,944,600	$19,655,400	-$3,296,400	$3,296,400
FY12	$24,600,000	40.20%	$9,889,200	$14,710,800	26.80%	$6,592,800	$18,007,200	-$3,296,400	$3,296,400
FY13	$24,600,000	46.90%	$11,537,400	$13,062,600	33.50%	$8,241,000	$16,359,000	-$3,296,400	$3,296,400
FY14	$24,600,000	53.60%	$13,185,600	$11,414,400	40.20%	$9,889,200	$14,710,800	-$3,296,400	$3,296,400
FY15	$24,600,000	60.30%	$14,833,800	$9,766,200	46.90%	$11,537,400	$13,062,600	-$3,296,400	$3,296,400
FY16	$24,600,000	67.00%	$16,482,000	$8,118,000	53.60%	$13,185,600	$11,414,400	-$3,296,400	$3,296,400
FY17	$24,600,000	73.70%	$18,130,200	$6,469,800	60.30%	$14,833,800	$9,766,200	-$3,296,400	$3,296,400
FY18	$24,600,000	80.40%	$19,778,400	$4,821,600	67.00%	$16,482,000	$8,118,000	-$3,296,400	$3,296,400
FY19	$24,600,000	87.10%	$21,426,600	$3,173,400	73.70%	$18,130,200	$6,469,800	-$3,296,400	$3,296,400
FY20	$24,600,000	93.80%	$23,074,800	$1,525,200	80.40%	$19,778,400	$4,821,600	-$3,296,400	$3,296,400
FY21	$24,600,000	100.00%	$24,600,000	$0	87.10%	$21,426,600	$3,173,400	-$3,173,400	$3,173,400
FY22	$24,600,000	100.00%	$24,600,000	$0	93.80%	$23,074,800	$1,525,200	-$1,525,200	$1,525,200
FY23	$24,600,000	100.00%	$24,600,000	$0	100.00%	$24,600,000	$0	$0	$0

Section 7 reduces from $32.5 million to $5.5 million the appropriation to the Human Services Department made in Laws 2008 (2nd S.S.), Chapter 10, Section 1, as follows:

- Four million dollars to provide coverage for individuals enrolled in or eligible for the developmental disabilities Medicaid waiver program
- One million five hundred thousand dollars to enhance behavioral health services to children with behavioral health care needs who are already enrolled in Medicaid or SCHIP.

Any unexpended or unencumbered balances at the end of FY10 revert to the general fund.

Section 8 appropriates $22.1 million of TANF contingency funds to HSD for transfer to the TAA suspense fund to pay for working families tax credit. The Working Families Tax Credit is equivalent to 10 percent of the federal Earned Income Tax Credit and is a credit for low income working taxpayers against personal income tax. The TAA suspense fund reverts monthly to the general fund and so this represents an increase to general fund revenues.

Section 9 appropriates $24.55 million from the tobacco settlement program fund to HSD to replace general fund appropriations in the Medicaid program.

Section 10 appropriates $35.8 million from the “education lockbox,” a segregated part of the appropriations contingency fund dedicated to maintaining and implementing education reform in New Mexico, to the state equalization guarantee (SEG) distribution, supplementing general fund appropriations. SEG finances kindergarten through twelfth grade education in New Mexico. The “lockbox” was funded in 2003 with $120 million. This appropriation will leave approximately $30 million in the fund in FY10.

Section 11 transfers $55.7 million from the tax stabilization reserve (TSR) which is part of general fund reserves to the appropriations account. The TSR was designed to be a rainy day fund and each year any amount over 8 percent of prior year recurring appropriations in the operating reserve is transferred to the TSR (Sec. 6-4-2.2 NMSA 1978). Any amount over 6 percent of prior year appropriations is distributed from the TSR to a taxpayers dividend fund. The balance of the TSR will be $198.7 million, or 3.5 percent of FY08 recurring appropriations, after this transfer.

Appropriations such as this from the tax stabilization reserve require a declaration from the governor that the current revenues are insufficient to fund current year appropriations [Section 6-4-2.2 NMSA 1978]. To transfer money from the fund for purposes other than to cover current year appropriations a two-thirds from each chamber and a declaration of emergency are required.

Section 12 repeals Laws 2008, Chapter 50 (HB546), which appropriated any amount in excess of the projected revenue to the tobacco settlement program fund. The excess amount estimated is appropriated to Medicaid in Section 8. The intent of this law was to appropriate any additional amount of revenue that exceeded the fiscal year appropriation which would happen if the annual payment was higher than forecast. However, due to the way in which the payment is distributed to the permanent fund and then to the program fund, there are workability obstacles.

Section 13 makes the appropriations for Medicaid and SEG distribution (Section 8 and 9) contingent on the passage of a bill that reduces general fund appropriations contained in the 2008 general appropriation act, such as the companion solvency bill discussed below.

SIGNIFICANT ISSUES

Solvency 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 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.

Special Session Medicaid Appropriations. To provide health care services and provide health insurance to uninsured children, the Legislature appropriated $32.5 million to HSD during the August 2008 special session [Laws 2008 (2nd S.S.), Chapter 10, Section 1]. The appropriation was made in three segments:

- $10 million to provide services for individuals enrolled in or eligible for the developmental disabilities Medicaid waiver program
- $20 million to provide health coverage for children through the Medicaid program and the State Children's Health Insurance Program (SCHIP)
- $2.5 million for behavioral health services to children with behavioral health care needs in Medicaid and SCHIP.

The HSD and LFC estimates for additional individuals served in the programs ranged from 235 to 250 in the DD program and 17,000 to 19,000 children in the Medicaid program and SCHIP. A similar number of children would be enrolled in Medicaid behavioral health services. In order to continue these efforts, the bill reduces this appropriation to $5.5 million.

The state now qualifies for TANF contingency funds that were set aside by the federal government for states with high unemployment rates or high Food Stamp caseloads. New Mexico has been designated such a "needy state" as of September 2008. HSD must apply for the funds, which are available as reimbursements for state spending that meets TANF program criteria. The department will have to identify this state spending and request reimbursement. This bill would appropriate these reimbursement funds for reimbursing the TAA suspense fund for payments to taxpayers for the Working Families Tax Credit. This is shown as an increase to general fund revenues..

LFC staff participated in a conference call with NCSL staff and HSD staff to discuss the availability of the TANF contingency funds. While the department must work with its federal partners to properly apply for the funds, the state's eligibility for the grant appears stable and the state may be able to access slightly more funding. Nevertheless, the TANF contingency funds are made on a provisional basis and subject to future federal audits. To the degree that HSD applies for and receives more funding than the state was eligible to receive, the state may owe money to the federal government.

The TANF contingency funds are made on a provisional basis and subject to future federal audits. To the degree that HSD applies for and receives more funding than the state was eligible to receive, the state may owe money to the federal government.

Tobacco Program Fund. Section 8 appropriates $24.55 million from the tobacco program fund to the Medical Assistance Division of HSD to replace general fund revenue reduced by separate legislation. The $24.55 million includes $22.45 million that would have been distributed to the permanent fund, $700 thousand of fund balance, and $1.4 million that is available after the repeal of Laws 2008, Chapter 50.

Section 12 makes the appropriations contained in Sections 9 and 10 contingent on passage of legislation similar to HB 10 or similar legislation that reduces appropriations made in the general appropriation act of 2008. HB 10 reduces all agency appropriations by varying amounts.

ADMINISTRATIVE IMPLICATIONS

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

PERFORMANCE IMPLICATIONS

The SFC substitute for SB79 along with 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.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There are three companion bills that are part of a three-pronged solvency solution proposed by LFC. The plan is comprised of four bills:

- House bill 10 that reduces GAA 2008 appropriations by varying amounts for all state agencies, including the judiciary which are reduced by 1.35 percent, Medicaid which is reduced by 1 percent plus $24.55 million, and the public schools transportation which is reduced by $4 million

- Senate bill 80 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
- This 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 for Medicaid and other health services, and uses TANF money to pay for the Working Families Tax Credit.
- House bill 9 reauthorizes $94 million of outstanding capital outlay appropriations for projects that are several years old and have had no activity.

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