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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/07  
 SPONSOR     Martinez     LAST UPDATED     2/9/07     HB     861      
 SHORT TITLE     Law Enforcement Protection Fund Increase     SB                       
 ANALYST     Propst    

### REVENUE (dollars in thousands)

| Estimated Revenue |           |           | Recurring<br>or Non-Rec | Fund<br>Affected     |
|-------------------|-----------|-----------|-------------------------|----------------------|
| FY07              | FY08      | FY09      |                         |                      |
|                   | (\$4,430) | (\$4,793) | Recurring               | General Fund         |
|                   |           | \$4,430   | Recurring               | Local Fund<br>(LEPF) |

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

House Bill 861 amends the current Law Enforcement Protection Fund (LEPF or Fund) and improves the level of funding generated to participating tribal police departments, municipal and university police, and county sheriff's departments across New Mexico.

### FISCAL IMPLICATIONS

At present, all municipal police and county sheriff's departments are rated by class in accordance with populations established by the most recently completed decennial census. The current rate of distribution to which a municipal police or county sheriff's department is modified by HB 861 in the following manner:

| CLASS | POPULATION           | CURRENT DISTRIBUTION | REVISED  |
|-------|----------------------|----------------------|----------|
| 1     | 0 to 20,000          | \$20,000             | \$40,000 |
| 2     | 20,001 to 160,000    | \$30,000             | \$60,000 |
| 3     | 160,001 to 1,280,000 | \$40,000             | \$80,000 |

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Other changes in HB 861 include:

The base amounts to university police departments are increased from \$17,000 to \$34,000. Tribal police departments, municipal and university police, and county sheriff's departments are entitled to an increase from \$600 to \$1,000 for each police officer or sheriff's deputy employed full time by his department who has been certified by the New Mexico law enforcement academy as a police officer or has been authorized to act as a New Mexico peace officer.

Language in HB 861 provides for additional modifications in the distribution process beginning in 2009, adjusting the distribution based on prior year fund receipts.

According to DFA, the proposed distributions in HB 861 roughly double the current amounts. To illustrate the potential impact to the fund, in FY06, DFA distributed a total of \$4,988,200 in LEPF revenues. By utilizing the number of participating law enforcement agencies and the total number of certified officers in the FY07 allocation and implementing the changes from HB 861, the total distribution increases by \$4,271,800 to a grand total of \$9,260,000. This represents a potential increase of 85.6%.

Assuming that the average 1.83% annual increase in distributions will hold for the future, and that the 86% increase as calculated for FY06 will also hold, then the full distribution increase amounts are as shown.

| Current Law             | FY05        | FY06         | FY07         | FY08         | FY09         | FY10         | FY11         |
|-------------------------|-------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Law Enforcement         |             |              |              |              |              |              |              |
| Beginning Balance       | \$100,000   | \$100,000    | \$100,000    | \$100,000    | \$100,000    | \$100,000    | \$100,000    |
| Income                  | \$8,991,832 | \$10,100,373 | \$10,341,409 | \$10,799,321 | \$11,257,233 | \$11,715,145 | \$12,173,057 |
| Distribution            | \$4,870,000 | \$4,988,200  | \$5,080,656  | \$5,175,369  | \$5,270,082  | \$5,364,795  | \$5,459,509  |
| Gen Fund Reversion      | \$2,689,392 | \$8,592,712  | \$5,260,753  | \$5,623,952  | \$5,987,151  | \$6,350,350  | \$6,713,549  |
| Ending Balance          | \$100,000   | \$100,000    | \$100,000    | \$100,000    | \$100,000    | \$100,000    | \$100,000    |
| Proposed Law            |             |              |              |              |              |              |              |
| Law Enforcement         |             |              |              |              |              |              |              |
| Beginning Balance       | \$100,000   | \$100,000    | \$100,000    | \$100,000    | \$100,000    | \$100,000    | \$100,000    |
| Income                  | \$8,991,832 | \$10,100,373 | \$10,341,409 | \$10,799,321 | \$11,257,233 | \$11,715,145 | \$12,173,057 |
| Distribution            | \$4,870,000 | \$4,988,200  | \$5,080,656  | \$9,605,484  | \$10,063,397 | \$10,521,309 | \$10,979,221 |
| Gen Fund Reversion      | \$2,689,392 | \$8,592,712  | \$5,260,753  | \$1,193,836  | \$1,193,836  | \$1,193,836  | \$1,193,836  |
| Ending Balance          | \$100,000   | \$100,000    | \$100,000    | \$100,000    | \$100,000    | \$100,000    | \$100,000    |
| Gen Fund Revenue Impact |             |              | \$0          | -\$4,430,116 | -\$4,793,315 | -\$5,156,513 | -\$5,519,712 |

After FY09, the bill distributes all revenue increases received in the LEPF to the local law enforcement agencies, with only a small amount reverting to the General Fund. The amount of reversion for Law Enforcement Protection Fund shown in the December 2006 General Fund revenue estimate is in error.

The recorded revenue into the LEPF has been highly variable over the last few years. This may be a reporting issue rather than a money issue. The reversion posted to the General Fund for FY 04 was \$4,520.0, for FY05 \$2,689.0 and for FY06 \$8,930.0. If the recurring amount is similar to the FY06 amount then the proposed distributions would be fully funded. However, if the recurring amount is similar to the FY05 amount, then current distributions could not be fully

funded. Modeling done in the last few days has resulted in a better estimate of revenues and distributions. These estimates are shown in the table above. DFA notes that the expected level of revenues will fully cover the statutory increase in revenues

The impact on the General Fund is calculated as of June 30, whereas the distributions to the local governments are sent out in July. The reversion from the LEPF to the General Fund is based on June ending balances, minus a reserve, minus the amounts calculated to be sent out in July of the following fiscal year.

Another revision from the original FIR is that the bill has an effective date of July 1, 2007. Thus, the distribution in July 2007, which is calculated based on entitlements calculated in April 2007, would not be affected by this bill. The timing shown in the revenue chart above is correct.

When the annual LEPF distribution is made to local governments, any balance in excess of \$100,000 is transferred to the General Fund. The proposed increases to the LEPF distribution will reduce the transfer to the General Fund to a fixed amount each year, providing that revenues continue to grow in excess of the amount required to fully fund the statutory distributions.

Approximately 22 law enforcement officers have been killed in the line of duty over the past 10 years. The current payment to the families of family members of a peace officer killed in the line of duty is \$50,000, although SB 433 in this session would increase that amount to \$100,000. In any event, an average of \$110,000 per year in survivor's benefits will not materially distort this distribution.

### **SIGNIFICANT ISSUES**

The Law Enforcement Protection Fund Act provides an equitable distribution of money to municipal police, university police, tribal police and county sheriff's departments for use in the maintenance and improvement of those departments to enhance the efficiency and effectiveness of law enforcement services. The Fund also provides payments to surviving eligible family members of a peace officer killed in the line of duty.

The current revenue source for the Fund is generated from 10% of all money received for fees, licenses, penalties and taxes from life, general casualty and title insurance business pursuant to the New Mexico Insurance Code, except for money received from the health insurance premium surtax, are paid monthly to the State Treasurer and credited to the Fund. On or before June 30 of each year, the State Treasurer transfers to the General Fund any balance in the Fund in excess of \$100,000 that is not obligated and that is in excess of the amount certified by the Local Government Division of DFA to be distributed from that Fund.

Many law enforcement agencies utilize the funds made available to apply and receive loans from the New Mexico Finance Authority. This strategy generates more cash for larger assets and the amendments noted in HB 861 would further enhance the ability of agencies to do this.

### **ADMINISTRATIVE IMPLICATIONS**

The LGD currently determines the distributions of the Law Enforcement Protection Fund and the amendments outlined in HB 861 will not increase the impact on the Division.

**OTHER SUBSTANTIVE ISSUES**

Local law enforcement agencies seek funding from many sources as needs for equipment and advanced training increase. Reduction in Federal Law Enforcement grants have placed additional strains on many communities resulting in decreased revenues. The Fund is an essential element of all current public safety operating budgets and the amendments proposed in HB 861 would provide an infusion of needed revenue into the fund.

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