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

ORIGINAL DATE 2/28/07
SPONSOR Gray **LAST UPDATED** **HB** 1279

SHORT TITLE Taxpayer Dividends for General Fund Surpluses **SB**

ANALYST Francis

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

SUMMARY

Synopsis of Bill

House Bill 1279 eliminates the taxpayer stabilization fund and changes the reserve requirements of the general fund operating reserve to transfer fifty percent of the amount over 20 percent of prior year appropriations directly to the taxpayer dividend fund. HB1279 requires that the dividend fund be automatically distributed to taxpayers based on the number of federal exemptions claimed in the previous year if the dividend per exemption is greater than $50.

The money that is currently in the taxpayer stabilization fund will automatically be distributed to the taxpayer dividend fund upon enactment.

FISCAL IMPLICATIONS

There is not likely to be a fiscal impact as the reserve balance has not been over 20 percent of the prior year's appropriations in recent history and likely has never been. FY06 was close with a reserve balance of 18 percent of FY05 recurring appropriations. The legislature and the governor have tried to target the reserve balance, providing for capital outlay while still reserving an adequate reserve.

SIGNIFICANT ISSUES

The most significant issue with HB1279 is that it will likely need a super-majority (two-thirds of the members of each chamber) to be enacted due to the temporary provision for distributing the funds in the taxpayer stabilization fund to the taxpayer dividend fund. This provision is in Section 6-4-2.2 NMSA 1978 which is the section being repealed.

For there ever to be a dividend issued, the amount above 20 percent of prior year recurring revenues would have to be at least $183 million. Assuming 1.83 million exemptions for FY07 at $50 per exemption, at least $91.5 million would have to be in the dividend fund. Since half of the excess over 20 percent is transferred, the amount over 20 percent would need to be at least $183 million or 3.4 percent of FY06 recurring appropriations.
Under current law, if the operating reserve exceeds 8 percent of prior year recurring appropriations, the amount above 8 percent is distributed to the taxpayer stabilization reserve. If the balance in the taxpayer stabilization reserve is above 6 percent of prior year appropriations, then the amount over 6 percent is transferred to the dividend fund. Then, if the balance of the dividend fund exceeds 1 percent of prior year personal income tax revenues, "the governor shall propose to the next session of the legislature a method for refunding the balance to the taxpayers." [Section 6-4-5 NMSA 1978]

In FY06, the balance of the taxpayer stabilization fund was at 5.8 percent of FY05 recurring appropriations indicating that a transfer to the dividend fund is a real possibility in the near future. At least $10.8 million has to be transferred to trigger a dividend because FY06 personal income tax revenue was $1.08 billion.

ADMINISTRATIVE IMPLICATIONS

HB 1279 does address a question that has come up in recent years regarding the process when money is distributed to the taxpayer dividend fund. Current law, cited above, requires the governor to propose a method for refunding the balance to the taxpayers but there is nothing that requires the legislature to act on that proposal or that they cannot amend it. The funds in the dividend fund can only be appropriated for refunds to taxpayers but there is no clear requirement that they must be refunded. This bill sets out a formal process of distribution.

TECHNICAL ISSUES

On page 3, lines 19-21, the reference to "previous year's total general fund appropriations and other obligations of the general fund" would include nonrecurring appropriations, tobacco program fund distributions and other appropriations from the other funds. Current law specifies prior year *recurring* appropriations. If that was the intent, an amendment would be in order.

The dividend would be subject to federal income tax and likely be included as income for the purpose of determining benefits.

NF/mt