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

SPONSOR Sharer
ORIGINAL DATE 02/06/08
LAST UPDATED
HB

SHORT TITLE Limit State Expenditure Increases
SJR 15

ANALYST Schardin

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	**FY09**		
	(See Narrative)	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Companion to SB513

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	**FY09**	**FY10**		
	See Narrative		Nonrecurring	Severance Tax Permanent Fund
	See Narrative		Nonrecurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Finance and Administration (DFA)
Attorney General's Office (AGO)
Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 15 asks voters to amend the New Mexico Constitution to limit state expenditure growth. During the 2009 regular legislative session, the proposal would require the legislature to limit expenditures for the FY10 budget to the FY08 budget plus growth of 3.6 percent plus the state population growth rate for the most recent calendar year for which an estimate is available from UNM's bureau of business and economic research. During the 2010 regular legislative session (FY11 budget) and every year thereafter, the expenditure limit would be the previous fiscal year's budget plus growth of 3.6 percent plus the New Mexico population growth rate.

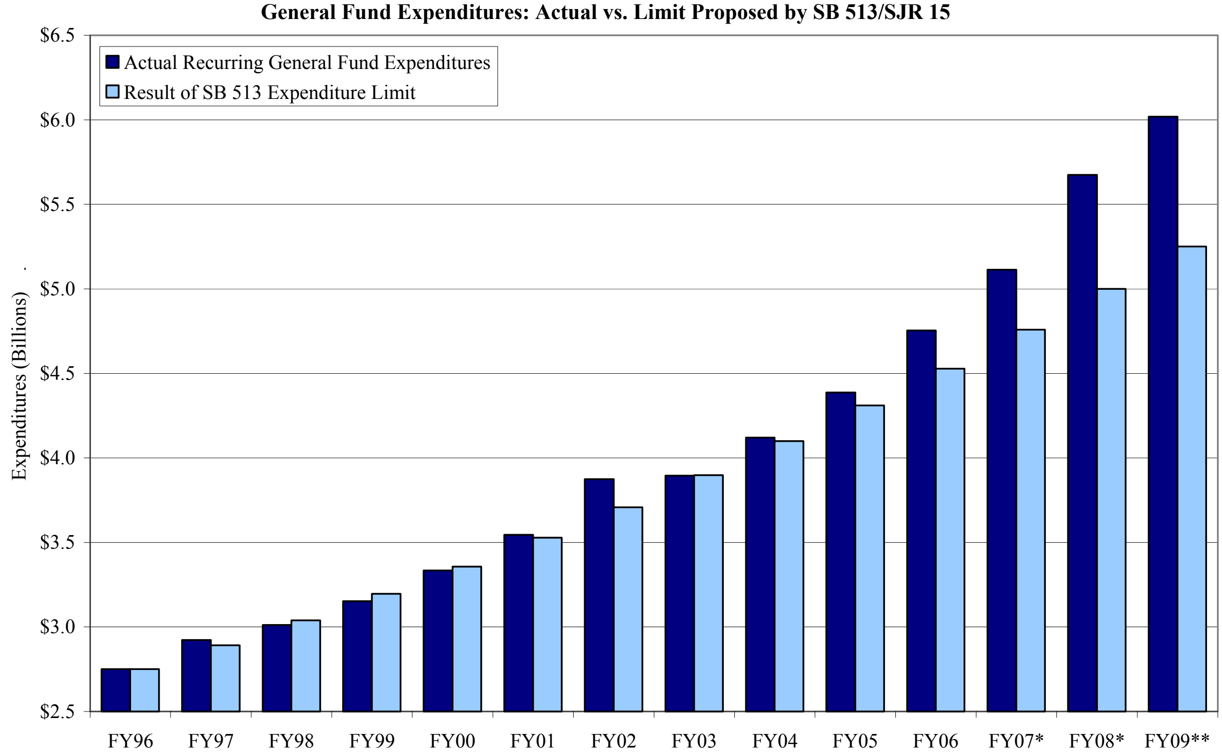
The resolution also provides that in the event revenue collected in a fiscal year exceeds the expenditure limit, 60 percent of the unexpended or unencumbered balance will be deposited in the Severance Tax Permanent Fund (STPF) and 40 percent will be rebated by TRD on an equal per capita basis to all persons filing a New Mexico personal income tax return in the calendar year in which the excess is determined.

Finally, the resolution provides that the amendment proposed in this resolution will be submitted to voters at the November 2008 general election or any special election prior to November 2008 called for that purpose.

FISCAL IMPLICATIONS

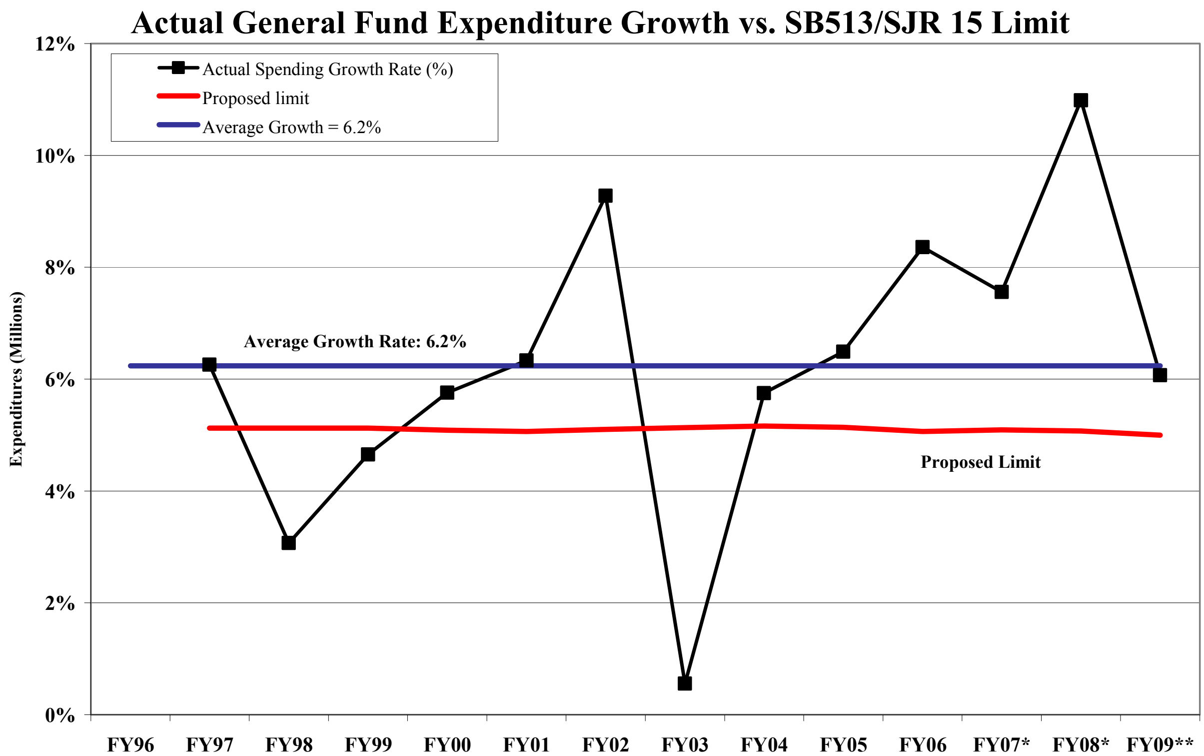
If adopted, this constitutional amendment would decrease the average rate of appropriation growth and decrease reserve fund balances by mandating that revenues in excess of the expenditure limit be transferred to the STPF and refunded to taxpayers. It is difficult to estimate how much the constitutional amendment would reduce expenditures, but the chart below illustrates how general fund expenditures would have been different if an identical expenditure limit had been in place since FY96.

General Fund Expenditures: Actual vs. Limit Proposed by SB 513/SJR 15



* Preliminary; ** LFC Recommendation

The chart below compares actual general fund expenditure growth with the limit that would have applied if the provisions of the proposed constitutional amendment had been in place. While expenditure growth averaged 6.2 percent between FY96 and FY09, it fluctuated from 0.6 percent in FY03 to 11.0 percent in FY08. Fluctuations in expenditure growth rates are attributable primarily to volatility in energy-related revenues. The limit proposed in the resolution would have been lower than average expenditure growth in every year.



* Preliminary; ** LFC Recommendation

The earliest time the bill could have a fiscal impact would be in the FY11 budget, which is enacted in spring of 2010. DFA estimates that if provisions in the bill had been in place in the past decades, the average annual rebate check would be about $35 per person and that the STPF corpus would have grown by an additional $66 million.

The general fund receives a constitutional distribution equal to 4.7 percent of the five-year average market value of the STPF. By mandating that 60 percent of revenue that exceeds the expenditure limit is distributed to the STPF, the bill would indirectly increase general fund revenue.

SIGNIFICANT ISSUES

UNM's Bureau of Business and Economic Research (BBER) projects that New Mexico's population will grow by about 1.3 percent per year in the near future. If these projections are correct, the proposed constitutional amendment would limit state expenditure growth to about 4.9 percent per year (1.3 percent plus 3.6 percent).

By basing each year's expenditure limit on the prior year's expenditure limit rather than on the prior fiscal year's actual expenditures, the proposal avoids one of the most troubling aspects of similar amendments that have been approved in other states. Many other states' limits base the limit on actual prior year expenditures so that a sharp revenue and expenditure decline in one year reduces expenditure limits in all future years. This proposal would allow state expenditures to recover from temporary revenue shortfalls.

Expenditure limits such as the one proposed may be unreasonable for government programs. Many government programs exist due to the failure of private markets to provide services deemed necessary by society. For example, government health programs are designed to serve individuals who cannot afford purchasing private insurance or whose expensive health care needs lead private health insurers to deny them coverage. The presence of such market failures suggests the costs of many government services should be expected to grow faster than many private sector costs. In addition, many state programs are federally mandated, taking expenditure choice away from state policymakers.

The resolution limits expenditure growth in FY11 and beyond using the prior fiscal year as a base. However in FY10, the base is two years prior (FY08). By basing the FY10 expenditure limit on FY08 instead of FY09, the resolution eliminates one year of natural expenditure growth.

The act requires rebates of excess revenue to personal income tax filers to be sent in the calendar year in which the excess is determined. If excess revenue is determined to exist at the end of FY11, the calendar year of determination will be CY11. Since personal income tax returns for CY11 will not be filed until spring of CY12, the bill would delay payment of FY11 rebates until spring of CY12 or spring of CY13.

In the event that a small amount of excess revenue exists at the end of a fiscal year, the proposal would still require TRD to send very small rebate checks to all personal income tax filers. If the amount of excess revenue is small enough, the costs of issuing rebate checks could outweigh the benefits of the rebates. Consider amending the resolution so that unless excess revenue exceeds a certain percent of personal income tax liabilities the entire amount of excess revenue is distributed to the severance tax permanent fund. Suggested language may be found in Section 6-4-5 NMSA 1978, which states that refunds to taxpayers from the taxpayers dividend fund only occur if the balance of the fund exceeds one percent of the tax liabilities reported to TRD during the fiscal year (currently about $10 million).

PERFORMANCE IMPLICATIONS

Proponents of the resolution believe that it will force government programs to control cost increases become more efficient. Opponents of the resolution fear that the expenditure limit will leave critical government programs without adequate funding.

ADMINISTRATIVE IMPLICATIONS

Administrative costs to TRD for the rebates would be high. Before rebates of excess revenue could be sent, TRD would have to know the total number of eligible filers. This would not be known by the time personal income tax refunds are currently sent, so the rebate would either have to be sent separately or along with the following tax year's refunds,

It is unclear which department will be responsible for calculating the expenditure limit required by the resolution.

COMPANIONSHIP

Senate Joint Resolution 15 is a companion to Senate Bill 513. The provisions of Senate Bill 513 will become effective on January 1 following adoption by the state's voters of the constitutional amendment proposed in Senate Joint Resolution 15. However, the language in Senate Joint Resolution 15 does not tie completely to language in Senate Bill 513.

TECHNICAL ISSUES

It is unclear whether a revision to state population growth could require expenditure reductions in a fiscal year that has already begun.

On page 2, lines 24-25 and page 3, lines 4-5, the reference to "unexpended or unencumbered balance" in the general fund is not in sync with the state's recent adoption of modified accrual accounting. The terms "unexpended" and "unencumbered" applied previously when the state operated on a cash accounting basis.

The resolution does not clearly define the base on which the expenditure limit is calculated. The intent may be for "state expenditures" to mean only those contained in the general appropriation act (GAA). However, limiting GAA appropriations could have the unintended consequence of increasing special, supplemental and deficiency appropriations as well as capital outlay expenditures. Additionally, the GAA contains federal funds and other non-state sources.

The resolution does not state whether revenues deposited in reserve funds will count toward the expenditure limit. If so, building reserves will be in competition with all other state spending.

If the intent of the resolution is to grow the FY10 budget over the FY09 base rather than the FY08 base, the resolution should be amended to replace the number "2008" with "2009" on page 2, lines 10, 14 and 18.

DFA notes that if a rebate check mailed by TRD were returned, a taxpayer would need to pursue their rebate amount through unclaimed property rules.

SS/jp