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FISCAL IMPACT REPORT

ORIGINAL DATE 10/19/09
 LAST UPDATED 10/21/09 **HB** _____

SPONSOR Nava

SHORT TITLE Transfer Reserves to General Fund for 2009 **SB** 14

ANALYST Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
(\$115,000.0)			Nonrecurring	Tax Stabilization Fund
(\$110,000.0)			Nonrecurring	Operating Reserve
\$215,000.0			Nonrecurring	Appropriation Account

(Parenthesis () Indicate Revenue Decreases)

Duplicates HB 6 and SB 19

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

Senate Bill 14 provides transfer authority from the tax stabilization reserve and the operating reserve to the general fund to address the fiscal year 2009 shortfall. Section 2 authorizes the transfer of \$110 million from the operating reserve to the appropriation account. Section 1 authorizes the Governor to transfer the amount needed to cover the appropriation account shortfall -- up to \$115 million -- from the tax stabilization reserve. This transfer would occur after the transfer from the operating reserve authorized in section 2 of the bill.

FISCAL IMPLICATIONS

The transfers provided in this bill are needed to cover the estimated \$214 million shortfall in the appropriation account in FY09. The preliminary operating reserve balance as of the end of FY09 was \$245.8 million. After the transfer required in this bill the balance would fall to \$135.8 million. The preliminary FY09 ending balance in the tax stabilization reserve was \$198.7 million. If the full \$115 million authorized in this bill is transferred, the balance would be \$83.7 million.

SIGNIFICANT ISSUES

Subsection C of section 6-4-2.2 NMSA 1978 provides that appropriations from the Tax Stabilization Reserve require a two-thirds majority vote of both houses and a declaration of emergency by the Governor. An exception to these requirements is provided in subsection D in the event that a general fund deficit is projected for the *current year* or in the budget as recommended by the executive (emphasis added). House Bill 6 proposes transfer of funds in FY09. An argument could be made that FY09 is no longer the “current year” and therefore that the supermajority vote requirement must be met to transfer funds in FY09. If that argument is accepted, then an alternative proposal to meet the FY09 budget shortfall without a supermajority vote would be to move the entire \$215 million from the Operating Reserve.

Since a general fund deficit is also projected in FY10, a transfer of the amount of the deficiency from the Tax Stabilization Reserve could be authorized without the supermajority vote.

The bill contains an emergency clause.

DUPLICATION

House Bill 6 and Senate Bill 19 are duplicates.

OTHER SUBSTANTIVE ISSUES:

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

This bill is needed to balance the state’s finances as of the end of FY09. The state would be prohibited by section 6-4-6 from issuing new warrants if the bill or a similar measure is not passed.

TC/svb