

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 10/20/09

SPONSOR Smith LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Reduce 2009 General Fund Appropriations SB 15

ANALYST Fernandez/Abbey

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	(314,200.0)	Recurring	General Fund
	(1,500.0)	Nonrecurring	General Fund
	(25,000.0)	Nonrecurring	General Fund - Appropriation Account (from ARRA)
	2,000.0	Nonrecurring	Federal Funds (FMAP-DD)
	12,000.0	Nonrecurring	Federal Funds (FMAP-Medicaid)
	(45,500.0)	Nonrecurring	<b>General Fund *</b>
	45,500.0	Nonrecurring	Federal Funds (ARRA –Education Stimulus)
	4,000.0	Nonrecurring	Tobacco Settlement Program Fund-cash balances
	3,000.0	Nonrecurring	General Fund
	2,000.0	Nonrecurring	<b>Federal Funds * ARRA – Workforce Solutions Dept.</b>

(Parenthesis ( ) Indicate Expenditure Decreases)

**\*Assumes Technical Issue #3 will be adopted.**

**\*\*Assumes Technical Issue #7 will be adopted.**

### SOURCES OF INFORMATION

LFC Files

## SUMMARY

### Synopsis of Bill

This bill reduces general fund appropriations in Laws 2009, Chapter 124 (General Appropriation Act) in Sections 4 and 5 by various amounts; allocates funds remaining from the American Recovery and Reinvestment Act of 2009, State Fiscal Stabilization Fund; appropriates cash balances from the Tobacco Settlement Program Fund and appropriates emergency supplemental funding for public schools in FY10.

## FISCAL IMPLICATIONS

### Section 1

Subsections A through J reduce general fund appropriations in Section 4 of the 2009 General Appropriation Act by a total of \$359.7 million (\$314.2 million-state agency reductions and \$45.5 million further reduced from public schools SEG and higher education I&G replaced with ARRA.

Reductions are directed to be made at the agency level rather than by program and category; as such, this gives agencies full flexibility to implement the reductions with the exception of the Medical Assistance Program (Medicaid) at Human Services Department and the Developmental Disabilities Support Program at Department of Health.

Reduction amounts vary by agency as follows:

- 2.8 percent** The Court of Appeals, the Supreme Court Building Commission, the Second Judicial District and the Office of the Attorney General,
- 4.8 percent** District Courts, Supreme Court, Law Library and Administrative Office of the Courts, all District Attorney Offices, Public Defender, Secretary of State, and the State Auditor
- 6.8 percent** All other agencies
- 6.8 percent** New Mexico Compilation Commission, Judicial Standards Commission and the Administrative Office of the District Attorneys
- 2.8 percent** The Commission for the Blind, the Vocational Rehabilitation Division of the Public Education Department, the Parole Board and Juvenile Public Safety Advisory Board
- 4.8 percent** The Developmental Disabilities Planning Council
- 5.8 percent** Department of Finance and Administration except for agency code 344
- 5.8 percent** Department of Health, except the Developmental Disabilities Support Program which is reduced by \$2 million and offset by a \$2 million increase in federal funds.
- 6.0 percent** Instruction and General (formula funding) for all higher education institutions
- 6.0 percent** Public School Support – the State Equalization Guarantee or formula funding (SEG)
- 5.8 percent** Veteran Services Department and the Children, Youth and Families Department
- 5.8 percent** Corrections Department and the Department of Public Safety
- 6.3 percent** Public Education Department
- 6.8 percent** Legislative, Legislative Building Service, All other state agencies
- 6.8 percent** Human Services Department – Behavioral Health Services Program, Income support Program, Child Support Enforcement Program and Program Support
- 8.5 percent** Apprenticeship Assistance, Regional Education Cooperatives, all other public

- education special projects
- 6.8 percent** Higher Education Department
- 8.5 percent** All other “below the line” appropriations for higher education institutions
- 8.5 percent** All “below the line” public school support appropriations
- 27.5 percent** Workforce Solutions Department
- 6.8 percent** Citizens’ Review Board, Emergency water supply funds, Fiscal Agent Contracts, State Planning Districts, State Treasurer Audits, Youth Mentoring Program, Luna County Teen Court, Santa Fe Teen Court, Leasehold Community Assistance, Acequia and Community Ditch Education Program, NM Acequia Commission, Food Bank, County Detention of Prisoners and NM Rodeo. All other items are not reduced.
- 100 percent** Weatherization appropriation (DFA)
- 100 percent** Educational Technology Fund

***No Reductions:***

Medicaid – the other category in the Medical Assistance Program is reduced by \$14 million, which will be offset by \$12 million in federal funds and \$4 million in cash balances from the tobacco settlement program fund. (While the state is expecting to receive another \$12 million in federal funds for Medicaid due to American Recovery and Reinvestment Act, the bill reduces general fund by only \$10 million due to a projected shortfall in program.)

DFA - Dues and Membership Fees/Special Appropriations.

**Section 2**

Reduces a nonrecurring appropriation made in Section 5 of the General Appropriation Act of 2009, to the Department of Information Technology by \$1.5 million for the New Mexico Computing Applications Center. The appropriation is for staff and operational costs of the center.

According to the New Mexico Computing Applications Center, they are expected to generate \$2.2 million in other revenue from private sources which they could use to replace this general fund reduction.

**Section 3**

Subsection A: Appropriates \$25 million awarded as part of the state fiscal stabilization fund to New Mexico for other government services. Under this provision of the federal law, the Governor may use up to \$58 million for public safety and other government services. Based on the State Fiscal Stabilization Fund Application submitted by Office of the Governor on June 4, 2009, to the U.S. Department of Education, 3 percent of the total allocation was estimated to be used for “public assistance” and 97 percent was “undetermined”.

Subsection B: Distributes \$45.5 million of the remaining \$93.2 million from the American Recovery and Reinvestment Act of 2009, State Fiscal Stabilization Fund allocation awarded to New Mexico and directs that it shall be distributed through the State Equalization Guarantee (SEG) distribution to districts in FY10.

**Section 4**

Appropriates \$4 million in cash balances from the tobacco settlement program fund to the Human Services Department for expenditure in fiscal year 2010 for the Medical Assistance Program. This appropriation is an offset to the reduction to the Medical Assistance Program in Section 1.

### **Section 5**

Appropriates \$3 million from the general fund to the emergency supplemental distribution for expenditure in FY10 so the Public Education Department may make emergency distributions to school districts in financial need. Funds may not be distributed if school districts or state-charter schools have cash and invested reserves, or other resources or any combination equaling 5 percent or more of their operating budget.

### **SIGNIFICANT ISSUES**

- FY09 recurring revenue fell \$98 million short of the August 2009 forecast.
- FY10 revenue is down by \$219 million and FY11 by \$224 million August 2009 forecast.
- FY09 revenue fell \$214 million short of appropriations.
- Absent legislative action, FY10 ending balances would be minus \$324 million.
- FY10 changes of \$653 million are needed to reach a target reserve of 6 percent.

As the economy has deteriorated and revenues have fallen significantly, the October 2009 revenue estimate now projects a deficit for FY10 of \$324 million. It is necessary that the Legislature and the governor move quickly to address this shortfall. This bill is part of a comprehensive approach that will address the fiscal solvency while maintaining a reserve level greater than 5 percent at the end of FY10. Maintaining a prudent reserve level in the current fiscal year is critical as the economy has shown only modest signs of improving and downside risks to the revenues still exist.

This bill along with its companion bills will address the current \$324 million deficit (based on the October 2009 revenue estimate) and maintain approximately 5 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.

Despite the solvency measures for FY10, the FY11 “new money” outlook is still bleak, because projected revenue would still be less than post-solvency FY10 appropriations and because of the need to replace federal stimulus funds.

### **ADMINISTRATIVE IMPLICATIONS**

Department of Finance and Administration (DFA) will be required to reduce the operating budgets, appropriations and adjust agency allotment distributions accordingly. DFA, State Budget Division and LFC staff should review the adjusted FY10 operating budgets in a timely manner.

The General Appropriation Act of 2010 will include FY09 supplemental appropriations and supplemental FY10 BAR authority thus allowing another opportunity to consider agencies with additional needs and flexibility to manage the reductions in this bill.

### **TECHNICAL/SUBSTANTIVE CHANGES**

1. A section should be added to provide the State Budget Division of the Department of Finance and Administration with the flexibility to reduce all appropriations under the other state funds, internal service/interagency transfers and federal funds columns when

necessary to match the general fund reduced appropriations. This is especially important for those state agencies that have federal funds budgeted that require a state general fund match which will be reduced. Accordingly, it will be necessary for them to reduce their federal funds budget.

2. Section 5 should be amended to target the \$3 million appropriation to the smallest school districts and state chartered schools to provide additional assistance with shortfalls that result from reductions in order to meet operational need. In addition, a requirement should be added that requires school districts and state chartered schools to adopt cost-saving measures such as combining classes to achieve maximum efficiency and compliance with other accountability measures such as timely audits.

Similar language is included in House Bill 10, Section 4, Subsection (2) b, (4) d and e.

3. Section 1, Subsection I (2) instruction and general category and Subsection J (1) state equalization guarantee distribution should be further reduced by \$45.5 million from the general fund – proportionally, to the percent share of their general fund appropriation.
4. Section 3, Subsection B, \$45.5 million of the \$93.2 million remaining from the American Recovery and Reinvestment Act allocation shall be distributed (1) through the state equalization guarantee distribution and (2) through the instruction and general category proportionally, in proportion to the amount of the general fund reduction in #3.
5. Legislative Building Services – the reduction should be 3.3 percent rather than 6.8 percent to allow for additional expenses for operating the new Capitol Building Parking structure.
6. New Section: APPROPRIATION - Two million dollars (\$2,000,000) is appropriated of federal American Recovery and Reinvestment Act 2009 unemployment insurance modernization funding to the workforce solutions department for operating expenditures in state fiscal year 2010.
7. Page 4, line 4 – after the word “funds” add the following: by the Human Services Department (HSD). This clarifies that the matching federal funds come from HSD rather than DOH.

## COMPANIONSHIP

This is a companion bill to other bills that are also part of a solvency solution.

- A bill that (1) voids capital outlay and (2) swaps general fund appropriated for certain projects and replaces with severance tax bond funding.
- A bill that reduces FY10 appropriations for Legislative offices; Laws 2009 Chapter 1 (Feed Bill).
- A bill that implements a 2 year delay for the increase in the employer contribution for the Educational Retirement Board and delays implementation of Laws 2009, Chapter 287 which contains a monthly distribution to the Retiree Health Care Authority.
- A bill which transfers money from various state funds in the treasury to the general fund.
- A bill that transfers money from the reserve accounts to the appropriation account.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

1. Failing to pass solvency measures would result in a violation of Section 6-4-6 NMSA 1978 and possibly require the Secretary of Department of Finance and Administration to suspend issuing warrants and the State Treasurer to suspend the redemption of warrants.
2. The state will incur a budget deficit in violation of Article IX of the New Mexico Constitution.

CTF/svb

**FY 11 "New Money"**  
**(FY11 Recurring Revenue Minus FY10 Recurring Approps.)**  
**(dollars in millions)**

	<b>EXEC Counter</b>	<b>Scenario J AVG 5.7%</b>
FY11 Recurring Revs.	5,397.8	5,397.8
October Scenario	(224.1)	(224.1)
<b>Adjusted FY11</b>	<b>5,173.7</b>	<b>5,173.7</b>
FY10 Recurring Approps	5,493.6	5,493.6
Less: Solvency Reduction	(118.2)	(314.2)
<b>Subtotal</b>	<b>5,375.4</b>	<b>5,179.4</b>
Plus: Replace Education Stimulus	258.3	162.9
Replace Gov Service Funds		25.0
Replace Medicaid FMAP	83.2	83.2
Replace Sponge Notes for GF	-	-
<b>Adjusted Recurring Approps</b>	<b>5,716.9</b>	<b>5,425.5</b>
<b>New Money</b>	<b>(543.2)</b>	<b>(251.8)</b>

**Negative Risks:**

Replace Medicaid FMAP 30-60  
Growth in Medicaid Budget-To Be Determined