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FISCAL IMPACT REPORT

SPONSOR Ruiloba/ Rehm/ Rue **ORIGINAL DATE** 2/21/2017
LAST UPDATED 2/28/2017 **HB** 386

SHORT TITLE Law Enforcement Fund for Planning and Training **SB** _____

ANALYST Rogers

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
\$0.0	\$250.0	Recurring	Law Enforcement Protection Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
\$0.0	\$250.0	\$250.0	Recurring	Law Enforcement Training and Recruiting Fund
\$0.0	(\$250.0)	(\$250.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	\$250.0	\$250.0	\$500.0	Recurring	Law Enforcement Training and Recruiting Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 9.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Indian Affairs Department (IAD)

Department of Finance and Administration (DFA)

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 386 proposes a new distribution from the Law Enforcement Protection Fund (LEPF) to the Law Enforcement Training and Recruiting Fund (LETR) (29-7-12(D) NMSA 1978) for statewide planning, training, equipment, and supply purposes consistent with LEPF allowable expenditures.

This bill also amends several sections of the Law Enforcement Protection Fund Act to do the following:

- Adds the New Mexico law enforcement academy (Academy) as a recipient of LEPF funding;
- Cleans up language to be in line with the new “Peace officers’, New Mexico mounted patrol members’ and reserve police officers’ survivors’ Fund” name (changed by Laws of 2016, chapter 41, section 1);
- Adds language to specify that for LEPF funding purposes, officers can also be certified by a regional law enforcement training facility certified by the Academy director;
- Allows for up to a \$250 thousand annual distribution to the Academy for the LETR after all local law enforcement distributions are determined if there is no reduction in annual allocations due to insufficient fund balance and if the balance in the fund is in excess of \$5.1 million;
- Exempts distributions to the Academy for the LETR from accumulation prohibitions applicable to local law enforcement distributions.

FISCAL IMPLICATIONS

The bill makes a recurring \$250 thousand appropriation from the LEPF to the LETR. By making an appropriation from the LEPF, the general fund is negatively impacted by \$250 thousand less in reversions. DPS will use the \$250 thousand appropriation to carry out the provisions of the bill, increasing the department’s operating budget \$250 thousand from the LETR.

Continuing Appropriations

This bill provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

Agency Analysis

DPS states the purpose of the Law Enforcement Training and Recruiting Fund is to support advanced law enforcement training for all certified officers in the state. The fund is currently supported only through revenue received from local law enforcement agencies attending the Law Enforcement Academy’s advanced training courses. This revenue averages \$90-\$110K per year.

Remaining balances in the LEPF at the end of the fiscal year currently revert back to the general fund. Both DFA and LFC analysis states that increasing LEPF distributions results in a

corresponding decrease in the balance available for reversion to the general fund. As detailed below, increasing LEPF distributions will result in a corresponding decrease in the balance available for reversion to the general fund.

The bill would increase LEPF distributions by up to \$250 thousand annually beginning in FY18 with a corresponding annual decrease of up to \$250 thousand in reversions to the general fund. However, because the annual distribution to the Academy would only be made if the balance in the LEPF exceeds \$5.1 million, there is no impact on the reversion to the general fund for LEPF balances up to \$5.1 million. For any given year in which the LEPF has a balance over \$5.1 million, the balance would first be reduced by up to \$250 thousand to cover the annual distribution to the Academy with any remaining balance being available for reversion to the general fund.

DFA analysis states because the annual distribution of up to \$250 thousand to the Academy goes into the LETR, which is a non-reverting fund, annual distributions can be accumulated in the LETR for statewide law enforcement planning, training, equipment and supply purposes.

DFA also states that per 29-13-3 NMSA 1978, the LEPF is funded from 10 percent 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. This implies that the revenue received will fluctuate from year to year depending on volume of related insurance business activity.

Section 6, Subsection C of the bill requires a report be made to IAD if insufficient funds remain in the LEPF to fully compensate tribes. The Indian Affairs Department states “as the bill is now written, there is no direct fiscal implication to the New Mexico Indian Affairs Department (IAD). However, IAD’s budget might be impacted to the extent IAD is required to act on the report.”

SIGNIFICANT ISSUES

DFA explains “there are uncertainties surrounding the amount of annual revenue received by the LEPF. Annual revenues into the LEPF are dependent on the business activity of specific types of insurance. Changes in the insurance industry can make it difficult to make accurate annual revenue projections.”

DPS points out:

On page 7, lines 4-9, the bill inserts new language stating “for each police officer or sheriff’s deputy employed full time by a department who has been certified by the academy, or by a regional law enforcement training facility in the state certified by the director of the academy, as a police officer...”

Regional law enforcement training facilities do not certify law enforcement officers in New Mexico. Only the Academy certifies law enforcement officers. Therefore the language “or by a regional law enforcement training facility in the state certified by the director of the academy” should be deleted.

PERFORMANCE IMPLICATIONS

IAD states:

In section 6, subsection C, the bill states, “Annually on or before July 31, the state treasurer shall distribute from the money in the fund money certified by the division to be distributed to tribes. Payment shall be made to the chief financial officer of the tribe. If necessary, the fund may be decreased below the level of one hundred thousand dollars (\$100,000) to enable payment to the tribes. If insufficient money remains in the fund to fully compensate the tribes, a report shall be made to the Indian affairs department and to an appropriate interim committee of the legislature that reviews issues having impact on tribes by September 1 of the year of the shortfall.”

The bill does not indicate what action IAD is to take following receipt of a report from the state treasurer.

ADMINISTRATIVE IMPLICATIONS

DFA submits the following analysis:

If this bill is enacted, the DFA Local Government Division (LGD) will process an annual payment to the Academy as part of the LEPF distribution. With the enactment of House Bill 4, signed by Governor Martinez on 1/31/17, the annual distribution will be made on a periodic basis (such as monthly or quarterly) as determined by DFA. LGD would update the LEPF Rule, 2.110.3 New Mexico Administrative Code, to include the additional distribution and related allowable expenditures included in this bill. These new requirements will be accomplished with existing resources.

RELATIONSHIP

Relates to HB 9.

ALTERNATIVES

IAD states “Currently, tribes can be funded using federal funds provided by the Tribal Resources Grant Program under the Coordinated Tribal Assistance Solicitation program. Absent any language in the bill directing IAD action following receipt of a state treasurer-generated report, the generation of the report for IAD may not be necessary.”

TR/sb/jle