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FISCAL IMPACT REPORT

SPONSOR: Maes DATE TYPED: 3/06/03 HB _____

SHORT TITLE: Transfer of Public Money SB 548/aSFI#1/aSFI#2

ANALYST: Smith

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	(100,000.0)			General Fund Oper- ating Reserve
	100,000.0			Other State Funds

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

No Response Received From Department of Finance and Administration (DFA)

SUMMARY

Synopsis of SFI#1 & SF#2 Amendments

Senate Floor Amendment #1 provides for prior LFC review of transfers. Senate Floor Amendment 2 requires that money be transferred only by a specific act of the Legislature. Neither of these amendments are sufficient to negate the concerns addressed below.

Synopsis of Original Bill

Senate Bill 548 gives the Department of Finance and Administration (DFA) the authority to transfer public money to or from the general fund or any other public funds, without specific appropriations by the Legislature. The provisions do not apply to constitutionally established or regulated trust funds.

FISCAL IMPLICATIONS

The fiscal impact of this bill could be significant. The numbers in the revenue box are simply a placeholder to indicate how broadly this bill can be interpreted. For example, the general fund operating reserve would qualify as a fund eligible to be depleted or increased. An analysis from DFA is important to assess the effects of this bill.

TECHNICAL ISSUES

- This bill changes law by reference and may possibly have constitutional questions.
- The phrase “upon legislative authorization” is unclear in its meaning and effect.
- The bill does not exempt bond debt service reserve funds and therefore could conflict with existing bond covenants.

OTHER SUBSTANTIVE ISSUES

- This bill would likely interfere with the Legislature’s constitutional prerogative to appropriate money. While the Legislature must appropriate both special and general government funds, they are limited by the availability of financial resources. Unlike the federal government, the New Mexico government can not print money. Therefore, an effect of this bill could be to thwart the power of the Legislature and the appropriation process.
- This proposal could also authorize the Executive to spend money in excess of that anticipated by the legislature. Section 6-10-42, NMSA 1978 allows limited transfer authority to remedy short run cash flow problems within the fiscal year. In addition, the Legislature routinely gives the Executive means to transfer a set amount from the general fund operating reserve to the appropriation account to make up revenue shortfalls in the general appropriation act. This transfer authority is necessarily limited; the intent is that larger shortfalls should necessitate corrective action on the part of the Legislature and Executive. This bill could conceivably “short circuit” this process.
- The Executive narrowly avoided exceeding its transfer authority at the end of FY02. This proposal may be in response to this situation. Testimony from the DFA would be help the Legislature understand the intent of this bill.
- A list of affected funds is attached.

POSSIBLE QUESTIONS

If a fund is depleted, what is the status of previously authorized appropriations?

SS/yr/njw
Attachment