LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number SB401/aSFC **Sponsor** Cisneros

Tracking Number .211211.6 **Committee Referrals** SCORC/SFC

Short Title Fed Mining Revenue to State Fund

Original Date 2/28/2019

Analyst Simon **Last Updated**

FOR THE LEGISLATIVE FINANCE COMMITTEE

BILL SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee Amendment to SB401 (SB401/aSFC) changes the effective date to July 1, 2021, removing the fiscal impact for FY21. The amendment also makes a technical change to change “net receipts” of federal mineral leasing payments to “receipts” of federal mineral leasing payments. The Legislative Finance Committee (LFC) indicates the term “net receipts” does not apply to federal mineral leasing payments.

Synopsis of Original Bill

Senate Bill 401 (SB401) would transfer federal mineral leasing payments above the five-year average in payments to the tax stabilization reserve, also known as the state’s “rainy day” fund.

SB401 carries an effective date of July 1, 2020.

FISCAL IMPACT

Each year, New Mexico receives royalty payments from the federal government for production activities, including oil and gas production, on federal lands within New Mexico. According to the LFC, New Mexico received between $390 million and $569 million in FY13 through FY18, although the December 2018 consensus revenue estimates project $1.098 billion in federal mineral leasing payments in FY19, a 94 percent increase from FY18. The consensus revenue estimates project $758.5 million in FY20, $752.3 million in FY21, $766.7 million in FY22, and $792.7 million in FY23. SB401 appears to be attempting to account for these significant swings in payments by placing above-average payments into reserves and stabilize general fund revenue.

SB401/aSFC would transfer the amount of federal mineral leasing payments above the five-year average in payments to the tax stabilization reserve fund, also known as the state’s rainy day fund. The LFC estimates the five-year average in FY22 to be $721.7 million, $157.5 million more than

FY18 payments, but $376.3 million less than the FY19 payments. Based on the December 2018 consensus general fund revenue estimates, LFC estimates $45 million will be transferred to the tax stabilization reserve in FY22.

SUBSTANTIVE ISSUES

Under current state law, federal mineral leasing payments are distributed to the public school fund, except for annual appropriation to the instructional material fund, the Bureau of Geology and Mineral Resources at the New Mexico Institute of Mining and Technology. Distributions from the public school fund include the state equalization guarantee (SEG) distribution, the transportation distribution, and supplemental distributions for out-of-state tuition and emergency supplemental. In FY18, the Legislature appropriated $2.585 billion to the SEG distribution, transportation distribution and supplemental distributions, far more than the $564 million in federal mineral leasing payments. The public school fund also receives annual distributions from the land grant permanent fund.

As a practical matter, because annual appropriations for public schools are far in excess of the amount of revenue, these revenue sources are not tracked separately from other general fund revenue. In FY19, public schools represent 44.2 percent of recurring general fund appropriations. Because state law designates federal mineral leasing payment for public education, SB401 could reduce the total amount of revenue available for public education. Recently, the district court issued its Finding of Facts and Conclusions of Law in the consolidated *Martinez* and *Yazzie* lawsuit, which found the state has failed to raise sufficient revenue to fund education. While the court left it to the Legislature to determine what level of funding is sufficient, the court found current levels insufficient.

SB401/aSFC could help smooth general fund revenue projects and provide the state with additional funding if general fund revenue sees a significant decrease. Given the large share of general fund appropriations directed to public education, this could help protect public education funding in the event of a shortfall. The LFC analysis for SB401/aSFC notes the following:

> *"This bill does not change how funds are appropriated from the tax stabilization reserve and does not change or diminish legislative appropriation authority. Under current law, money in the tax stabilization reserve may only be appropriated if (1) the governor declares it "necessary for the public peace, health and safety" and only with the vote of two-thirds of both the House and Senate, or (2) if revenues are determined by the governor to be insufficient to meet authorized appropriations for the current and next fiscal year and the House and Senate approve a transfer to the general fund with a majority vote to cover the projected insufficiency for either or both fiscal years."*

SOURCES OF INFORMATION

- LESC Files
- Legislative Finance Committee (LFC)

JWS/mc