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FISCAL IMPACT REPORT

ORIGINAL DATE 02/18/09
LAST UPDATED 03/19/09 **HB** 590/aHTRC/aSFC

SPONSOR Sandoval

SHORT TITLE Tax & Rev Dept. TANF Fund Distribution **SB** _____

ANALYST Haug/Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 79

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment pares down the legislation to address the FY09 solvency appropriation made in Senate Bill 79. The amendment:

- Eliminates the creation of the “the state cash assistance fund” at HSD
- Eliminates the distribution from the tax suspense fund to the new fund
- Allows TRD to accept federal TANF funds through June 30, 2009, and
- Amends the confidentiality sections to allow TRD to share information with the Human Services Department for federal reporting and outreach purposes to low-income taxpayers.

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment strikes the proposed new subsection F and inserts a similar provision in the existing, but relettered, subsection E to allow the tax suspense to accept revenue from the federal Temporary Assistance for Needy Families (TANF) block grant. TANF funds must be appropriated by the Legislature.

The amendment creates a distribution from the tax suspense fund to a newly created state cash assistance fund. The distribution would be equal to the amount received from the TANF block grant pursuant an agreement between HSD and TRD.

The amendment adds a new section to the NM Works Act to create the state cash assistance fund. The fund shall receive distributions from the tax suspense fund. Balances in the fund shall not revert to any other funds, and expenditure of money in the fund is subject to appropriation to HSD.

The amendment puts an emergency clause on the bill, but makes the distribution and creation of the new funds effective July 1, 2009. The emergency clause is necessary to recognize TANF contingency funds appropriated in Senate Bill 79 for payment of the working families tax credit.

Synopsis of Original Bill

House Bill 590 authorizes the HSD to enter into an agreement with the TRD to transfer money from the federal Temporary Assistance for Needy Families (TANF) program to TRD for disbursement to low-income families with dependent children for “tax credit refunds or rebates”. Presumably, TRD will use the federal funds to pay refunds to qualifying taxpayers taking the working families tax credit (Section 7-2-18.15 NMSA 1978). The bill also authorizes TRD to transfer an equal amount of state funds to HSD. HSD would be able to use the funds for TANF participants in its state funded cash assistance program.

The bill also authorizes TRD to furnish confidential tax information necessary to monitor the use of TANF monies to HSD, and also the names and addresses of low-income taxpayers so that HSD can conduct outreach programs for taxpayers with dependent children.

FISCAL IMPLICATIONS

According to TRD, this proposal has no revenue impact. It does, however, establish mechanisms needed to allow federal funds to be used to pay certain refunds to low-income families.

The change to allow the tax administration suspense fund to receive the federal funds from HSD is a critical component of the FY09 solvency plan and allows TRD to receive the appropriation in Laws 2009, Chapter 3 (SB79) for the purpose of paying the working families tax credit.

HSD states that HB 590 allows for Federal TANF Block Grant non-assistance funds to be diverted to the Tax Administration Suspense fund for distribution to low-income families with dependent children for tax rebate/refunds. State General Funds (GF) that are normally used for these same low-income tax rebate/refund programs would transfer to HSD and are intended to pay for TANF cash assistance for at-risk families who have received a state work participation waiver as authorized by the New Mexico Works (NMW) Act, but may not be eligible for a federal work participation waiver. HSD would be responsible for expenses incurred by TRD to derive the information requested by HSD, if the information requested is not readily available in reports for which TRD’s information systems are programmed.

SIGNIFICANT ISSUES

HSD proposed a revenue swap of federal TANF block grant funds with state general fund to give the department more flexibility in providing cash assistance to TANF participants. In most cases, such an exchange could be accomplished through the appropriations process, however TRD maintains that current statute governing the tax suspense fund does not allow other revenue to be accepted.

TRD states that this bill authorizes an agreement with HSD that will in part give HSD state funds appropriated to the Department. The Department is not appropriated any funds that it could give HSD in this bill. In discussions with HSD about this bill, it was the TRD's understanding that HSD would receive a direct appropriation to accomplish the purpose of the bill.

The HSD notes that an appropriation of funds collected in the State Cash Assistance Fund to HSD equal to the amount of the TANF funds used for refunds/rebates would be required each fiscal year.

HSD states that HB 590 provides the vehicle by which HSD and TRD can enter into an agreement to provide tax rebates/refunds using TANF funds and create a solely state funded cash assistance program to so that New Mexico can focus on providing strong case management to TANF recipients to help families overcome barriers and find and retain employment rather than simply decreasing the TANF roles. If the transfer of funds between TRD and HSD is authorized, New Mexico will be able to avoid federal fiscal penalties for not meeting participation rates.

RELATIONSHIP

The bill relates to Senate Bill 79, recently enacted, which appropriated TANF contingency funds for payment of the working families tax credit as part of the FY09 solvency package.

TECHNICAL ISSUES

The amendment should be clarified to refer to funds appropriated from the TANF block grant. HTRC amendment bullet two should read:

“On page 3, line 6, after “1978”, insert “and federal funds **appropriated** from the temporary assistance for needy families **program for** payment of tax refunds, tax rebates and tax credits to low-income families with dependent children otherwise authorized by state and federal law.”

The bill should specify that any transfer is subject to appropriation. Where the HTRC amendment (page 2) adds “D. Expenditures of the money in the fund is subject to appropriation to the department.”: this should be changed to read “D. Expenditures of the money in the fund is subject to appropriation **by the legislature.**”

TRD notes that the bill amends Section 7-1-8 NMSA 1978, which is also amended in HB 257, HB 337, and SB 501.

The amendment appears to create an additional Section 3, by not renumbering the existing Section 3.

OTHER SUBSTANTIVE ISSUES

The HSD states that:

In addition to the current economic situation limiting employment opportunities, TANF regulations have become very stringent. In February 2006, Congress reauthorized TANF with the passage of the Deficit Reduction Act of 2005 (DRA) which increases the work requirements for TANF recipients. The combination of changes made to the definition of what counts as an activity, the restrictive supervision, documentation and validation requirements, including having general fund MOE cash assistance participants be included in the work participation rates and the caseload reduction credit calculation will make it difficult to meet these targets.

The new requirements are challenging to meet and require New Mexico to find innovative strategies that work for our State. States that fail to meet the work participation rate and other requirements are subject to financial penalties. Under the penalty structure in TANF legislation, states that fail to meet the work participation rate can be subject to a penalty of up to a 5 % reduction in their TANF block grant for the first year, which increases by 2 % for each subsequent year that the state is not in compliance and must increase state Maintenance of Effort (MOE) spending from 75% to 80% of the state's 1994 welfare expenditures (established as base).

NMW families would be better served in Solely State-Funded program outside the TANF or MOE structure where the Federal TANF-related rules, such as time limits, work requirements, and data collection requirements do not apply. HB 590 allows TRD and HSD to enter into an agreement that would create this solely state funded program.

HSD will use the information provided by TRD to take a proactive approach reaching out to low income families with information that may be vital to their welfare.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The HSD comments that without an alternative plan to provide cash assistance to TANF recipients exempt from the work requirement by the New Mexico Works Act, who have severe barriers to meeting participation requirements, New Mexico may fail to meet the rigorous work participation rate imposed by the passage of the DRA, and thereby be subject to heavy penalties and fines.

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