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FISCAL IMPACT REPORT

ORIGINAL DATE 2/27/09

SPONSOR Lujan, B. LAST UPDATED 3/17/09 HB 732/aHAFC

SHORT TITLE Low Income Energy Utility Fund Distributions SB _____

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY12	FY13		
\$4,120.0	\$4,350.0	Recurring	MFA Weatherization Programs
\$2,472.0	\$2,610.0	Recurring	HSD LIHEAP
\$824.0	\$870.0	Recurring	EMNRD, Low Income Energy Efficiency Program
\$824.0	\$870.0	Recurring	Low Income Utility Assistance Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	(\$8,240.0)	(\$8,700.0)	Recurring	General Fund
	\$8,240.0	\$8,700.0	Recurring	Low Income Utility Assistance Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)

Energy, Minerals and Natural Resources Department (EMNRD)

Department of Finance and Administration (DFA)

Mortgage Finance Authority (MFA)

SUMMARY

Synopsis of HAFC amendment

The House Appropriations and Finance Committee (HAFC) amendment changes the effective date of the distribution from the natural gas processors tax from July 1, 2009, to July 1, 2011.

The amendment shifts the fiscal impact to FY12. In addition, the bill requires EMNRD to create low income energy efficiency improvement program but the amendment will leave the program un-funded until FY12.

Synopsis of Original Bill

House Bill 732 amends the Public Assistance Act, the Low Income Utility Assistance Act, and the Tax Administration Act to define and create:

- The low income energy efficiency improvement program at EMNRD for small-scale, direct in-home energy efficiency programs that do not include weatherization and to assist low income households to become more energy efficient.
- Distributions to and from the existing low income utility assistance fund. The fund would receive one-third of the natural gas processors tax. The distribution is repealed June 30, 2014.

The bill divides oversight and administration of the Low Income Utility Assistance Act among the Human Services Department for utility assistance payments, EMNRD for the low income energy efficiency improvement programs, and the Mortgage Finance Authority for weatherization programs.

FISCAL IMPLICATIONS

The appropriations contained in this bill are a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to the general fund.

The bill distributes 33.33 percent of the natural gas processors tax to the low income utility assistance fund. The amendment makes this distribution effective July 1, 2011. This amounts to \$8.24 million in FY12 and \$8.7 million in FY13. Currently, all revenue from this tax is deposited in the general fund. From the low income utility assistance fund the bill allocates 50 percent to MFA for weatherization programs; at least 30 percent to HSD for LIHEAP, except in years when the federal grant is more than \$15 million, less than 30 percent may be allocated; and 10 percent to EMNRD for the low income energy efficiency improvement program. Presumably, the remaining 10 percent would remain in the fund.

According to the February 2008 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is \$575 million less than the FY09 appropriations before the 2009 solvency reductions. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

The HAFC recommendation for general appropriations includes reductions in some areas where federal funds can be used. These reductions will have to be made up to maintain the current level of appropriations in FY11 and FY12. In FY11, \$150 million will have to be restored and in

FY12, \$330 million will have to be restored. This is in addition to other appropriation increases required in FY11 to maintain current service levels or to implement statutorily scheduled funding increases, such as ERB contributions, instructional material funding replacement, and restoring Medicaid funding from the general fund instead of the tobacco settlement program fund. These add up to \$80 million to \$100 million.

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

SIGNIFICANT ISSUES

According to HSD, the Low Income Home Energy Assistance Program (LIHEAP) is a grant from U.S. Department of Health and Human Service (HHS) that helps New Mexico low-income families meet the costs of home heating and cooling one time per year, increasing energy self-sufficiency and reducing vulnerability resulting from energy needs. HSD is the recipient of the federal LIHEAP funds along with several Tribes/Pueblos. Up to 15% of the LIHEAP grant may be used for weatherization. HSD and the Mortgage Finance Authority enter into a GSA each year to provide funding for weatherization from the LIHEAP grant (see funding chart above).

HSD provided the following history of LIHEAP funding:

Year	Base Grant	*State Funds	Emergency Contingency Funds	**Leveraging Funds	Total Funding	LIHEAP Funding to MFA Weatherization	
2009	\$22,918,844	\$1,900,000	\$2,346,755	Not Authorized	\$27,165,599.00	\$ 3,437,826	15%
2008	\$9,535,262	\$ 2,000,000	\$ 1,175,835	\$92, 852	\$12,714,049.00	\$1,920,056	15% Fed 25% State
2007	\$9,358,167	\$ 6,000,000	\$ 508,870	\$553,832	\$16,420,869	\$1,403,725	15%
2006	\$9,392,231	\$ 21,260,000	\$ 523,567	\$ 15,881	\$31,191,679	\$ 900,000	9%
2005	\$8,934,013	\$ 0	\$ 982,691	\$ 9,714	\$ 9,926,418	\$1,487,500	15%
2004	\$8,474,722	\$ 0	\$ 191,282	\$ 319	\$ 8,666,323	\$1,200,000	14%
2003	\$8,469,606	\$ 0	\$ 583,707	\$ 176	\$ 9,053,489	\$1,050,000	12%
2002	\$8,043,979	\$ 0	\$2,245,669	\$ 0	\$10,289,648	\$ 0	0%
2001	\$6,600,853	\$ 2,000,000	\$2,380,284	\$ 0	\$10,981,137	\$ 0	0%

HB 732 does not specify whether any administrative funds could be used from the appropriation. HSD notes that the bill does not indicate whether any of these funds should be used to provide funding to Tribes/Pueblos in New Mexico that administer their own LIHEAP program. If HSD has to provide funding to Tribes/Pueblos, it would require General Service Agreements (GSAs) with several Tribes and Pueblos, including Five Sandoval Pueblos, Navajo Nation, Zuni, Jemez, Laguna, Nambe, and Jicarilla.

According to MFA:

HB732 seeks to address the lack of consistent funding available to help low-income families in New Mexico to receive weatherization, utility bill payment and energy efficiency assistance. Rising costs are a major contributor to the severe economic hardship experienced by New Mexico’s low-income families. Estimates indicate that at least 150,000 New Mexicans qualify for energy assistance. Currently, only about half of

those residents receive short term bill assistance, and 1,000 to 1,500 receive weatherization assistance each year. Implementing energy efficiency measures in a low income home can provide up to 30% savings on energy bills.

Nationally, studies indicate that families who have trouble paying their energy bills will take money from food, medical necessities, house payments and other basic needs to avoid disconnection. More sustainable and comprehensive approaches including conservation education, energy efficiency, short-term assistance and other programs could help improve these families' situations. Though some federal funding comes to New Mexico for this kind of assistance, the funding is inconsistent, not guaranteed and does not allow agencies the opportunity to consistently deliver services to citizens in need.

The recently enacted federal stimulus package, the American Recovery and Reinvestment Act, includes about \$30.4 million for New Mexico's weatherization programs.

In addition, NM's federal LIHEAP grant more than doubled in 2009 to more than \$25 million. During the August special session, the Legislature appropriated \$1.9 million for state fiscal years 2009 and 2010 for the LIHEAP program.

PERFORMANCE IMPLICATIONS

MFA reports that its EnergySmart program is primarily funded by the federal government, with sporadic state funding augmenting the federal funds. Programmatic elements are based on the federal regulations, and cannot easily be changed. State funding for EnergySmart would not be subject to the federal restrictions, which in turn would improve and enhance the program's performance.

ADMINISTRATIVE IMPLICATIONS

EMNRD identified administrative costs to implement of the bill, including the devotion of staff resources. MFA suggest that it would need a minimum of 5 percent of the appropriation to cover administrative costs.

RELATIONSHIP

Relates to House Bill 260, which appropriates \$12 million for low income energy assistance programs at HSD and MFA.

TECHNICAL ISSUES

HSD noted the following technical issues:

HB 732 does not indicate whether any of these funds could be used for administrative costs or whether the funds could be used to provide funding to Tribes/Pueblos in New Mexico that administer their own LIHEAP program.

HB 732 does not indicate if the \$15 million in federal low income home energy assistance program funds is a base grant funding or a combination of base grant funds

together with emergency contingency and/or leveraging award funds. Base grant funding is the only award that is guaranteed with the approval of the state LIHEAP plan. Emergency contingency and leveraging awards are not always given to New Mexico based on a number of situations such as funding not being approved by the federal government or New Mexico does not meet the weather hardship criteria developed by HHS for a particular award. Emergency contingency awards are often given at the end of the federal fiscal year.

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