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FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/2014

SPONSOR Garcia, M LAST UPDATED _____ HB 104

SHORT TITLE Extraction Taxes For Home Energy Assistance SB _____

ANALYST Graeser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
	\$5,840.0	Recurring	HSD Home energy
	\$1,460.0	Recurring	DFA/MFA Home Weatherization

(Parenthesis () Indicate Expenditure Decreases)

Note: at first, although the revenue would be transferred to the LIHEAP fund accrued to FY 14, the physical transfer and the accompanying knowledge of the amount of the transfer would not be done until September, 2014, which is make it a FY 15 expenditure.

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16	FY17	FY18		
(\$7,300.0)	(\$4,900.0)	(\$3,400.0)	(\$1,900.0)	(\$100.0)	*Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

* Although this program is nominally a recurring earmark, the complex formula ensures that the revenue will not be known until September of the budget year. Also, note that the current expectation is that revenue growth will not

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	\$292.0	\$196.0	\$488.0	Recurring	MFA admin

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

NM Mortgage Finance Agency (MFA)
Human Services Department (HSD)

SUMMARY

Synopsis of Bill:

House Bill 104 proposes a (volatile) recurring source of earmarked revenue for the Low Income Home Energy Assistance Program (LIHEAP). The bill proposes a formulaic amount of revenue to be sliced off the Emergency School Tax with 80 percent transferred to Human Services for the direct LIHEAP assistance to low-income individuals for home heating and 20 percent transferred to Department of Finance and Administration for the LIHEAP home weatherization program managed by NMFA. The formula establishes a “base amount” which is the amount collected in FY2011 increased by the CPI for all commodities, all US urban consumers. Specifically, the numerator is the CPI for July of the current year and the denominator is the average CPI for CY 2011. Money would only be transferred when actual fiscal year to date collections exceeded the calculated formulaic distribution amount. The distribution would be calculated as 20 percent of the difference between actual year-to-date collections and the base amount.

FISCAL IMPLICATIONS

Assuming that School Tax revenues are collected and transferred as expected by the Consensus Revenue Estimating Group and reported in the December 2013 revenue estimate, the calculation of Monthly Calculation Amount will be as follows:

FY11 ending Oil & Gas School Tax \$376,104

	Base Amount (\$1,000)	Forecast Amount (\$1,000)	Monthly Calculation Amount (\$1,000)
FY 2014	\$390,647	\$427,100	\$7,300
FY 2015	\$396,507	\$421,200	\$4,900
FY 2016	\$402,454	\$419,500	\$3,400
FY 2017	\$408,491	\$417,900	\$1,900
FY 2018	\$414,618	\$415,300	\$100

No transfer will be made in a fiscal year until year-to-date collections exceed the base amount. For most years, this would occur with June revenues, reported in August and actually transferred in September. The revenue would be accrued to the LIHEAP fund in a concurrent fiscal year, but the appropriation and spending would be delayed until the following fiscal year. There is a calculated \$172,000 amount that would be transferred from May 2014 revenues, with the remainder of the fiscal year calculated amount transferred from June 2014 revenues. If revenues come in stronger than estimated, then 20 percent of the excess over estimate would be transferred to the two LIHEAP programs. If actual revenues underperform estimate, then 20 percent of the deficit below estimate would subtract from the two LIHEAP programs. Historical estimating performance for Emergency School Tax in most years is approximately ±5 percent, so this earmark will not be very predictable until late August or September following the fiscal year.

MFA notes that in past years, MFA has leveraged state appropriations five to one with Department of Energy (DOE) Weatherization and existing LIHEAP funding. MFA expects to similarly leverage the appropriation resulting from HB 104.

HSD comments, “... HSD administers the Low Income Home Energy Assistance Program

(LIHEAP) which helps low income New Mexicans pay for home heating and cooling costs one time each program year. LIHEAP funds are also used for the weatherization program which provides weatherization services/energy related home repairs for eligible low income households. HSD also administers the weatherization program. HSD receives funding from a federal LIHEAP grant. HSD received \$14,669,509 and \$13,360,803 for FFY13 and FFY14, respectively. In FFY13, HSD assisted 68,462 individuals, with an average benefit amount of \$122/per household. Year to date in FFY14, HSD has assisted 28,281 individuals with an average benefit amount of \$128/per household.”

A table of the CPI for relevant time periods follows:

CPI -- All commodities, all urban consumers	
CY 2011	224.9
Jul-13	233.6
Jul-14	237.1
Jul-15	240.7
Jul-16	244.3
Jul-17	247.9
Jul-18	251.6

SIGNIFICANT ISSUES

MFA notes: “This bill provides additional funding to the NM EnergySmart program to complete whole-house weatherization for low-income households throughout New Mexico, resulting in job creation and significant cost and energy savings for low-income households. Many low-income families live in homes with inadequate heat, leaky or missing windows and unsafe living conditions. As a result, low-income households may spend up to 17 percent of their monthly budgets on utility costs compared to four percent for homeowners with higher incomes. Weatherization through the NM EnergySmart program has resulted in savings up to \$400 per year in the energy bills of low-income households. DOE research shows that for every one dollar invested in weatherization, the community receives \$2.87 in additional benefits. MFA estimates that more than 85,000 homes in New Mexico are eligible for weatherization through NM EnergySmart.”

MFA further notes: “MFA currently administers the NM EnergySmart program using a combination of DOE Weatherization and existing LIHEAP funds, with additional funding from local utilities. From 2005-2009, the state appropriated funds on an annual basis for NM EnergySmart. MFA did not request state appropriations in 2010 or 2011 because it received substantial funding for NM EnergySmart from the American Recovery and Reinvestment Act (ARRA) during that period. While ARRA funds have been fully and successfully expended, the state did not reinstate appropriations for NM EnergySmart in 2012 or 2013, and DOE weatherization funds have been cut substantially. As a result, the amount of funding and number of homes weatherized has fallen dramatically. In calendar year 2013, MFA weatherized only 783 homes statewide, compared to 1,319 in calendar year 2012. Any additional funds received by NM EnergySmart, including those resulting from HB104, would help address funding shortages in this program and allow MFA to weatherize more homes...costs for whole-house weatherization average \$5,000 per home.”

The LFC strongly recommends against revenue earmarks and continuing appropriations – particularly for controversial and/or small spending programs. Earmarking generally provides too much, or too little revenue for these programs. Earmarking removes the program from the intense annual scrutiny of the House Appropriations and Finance Committee and the Senate Finance Committee and, therefore, constrains the finance committees’ ability to craft an appropriate budget.

This earmark may be poorly timed in the budget cycle, since the actual transfer is not known with adequate certainty until September following the fiscal year. This is after the following fiscal year budget has been submitted and approved. As an example, the FY 2015 agency appropriations will be determined during the short session of January/February 2014. The calculated amount of transfer to the LIHEAP fund would be based on the December 2013 revenue estimate (\$7,300,000). The legislature would determine the appropriate amount of money for the HSD and DFA LIHEAP programs and would take credit for the Other State Funds as estimated. However, the actual amount of transfer would not be known with certainty until September 2014, although it would be booked back to FY 2014. The amounts transferred to the LIHEAP fund from May and June 2014 revenues would be unbudgeted, but could be BAREd in when known in FY2015. (Note the amounts in the LIHEAP fund are non-reverting). This would be adequate time to fund the low income home heating assistance grants, but would not give the weatherization program adequate lead time to be effective. This mismatch between revenue into the LIHEAP fund and the ability to spend the money would occur every year.

The biggest issue involved is that the base amount in the formula grows predictably, but the revenue source is highly variable and volatile and does not grow in response to national inflation indices. A more appropriate index might be the energy commodities index since both the revenue and the home heating costs respond more closely to the energy cost portion of the CPI.

The formula is likely to produce revenue for the program from May revenues only occasionally. Making this into an annual distribution would be administratively less complex and would make the program more understandable.

The calculation of the monthly calculation amount is assigned to TRD, since the distribution is compiled at 7-1-6.61, however, the responsibility of disbursing funds from the LIHEAP fund to HSD or MFA is not clearly assigned.

EFFECTIVE DATE

Not stated – effective May 21, 2014; assume effective for FY2014, since the monthly calculation amount will likely be non-zero for June, 2014. If the May 2014 calculation amount is non-zero, there could be a transfer for May, but any amount distributed from May revenues would be offset against the amount calculated based on June revenues.

ADMINISTRATIVE IMPLICATIONS

This distribution would require TRD to monitor emergency school tax collections for 11 months with no distribution to the LIHEAP fund. Only in June of each year would a distribution be likely. Annual distributions have historically had a relatively high error rate.

OTHER SUBSTANTIVE ISSUES

Is it a good idea to earmark a highly volatile revenue source for an important program such as LIHEAP? Generally, there should be a rough match between the natural growth of the revenue program and the natural growth of the spending program. While MFA's weatherization program is primarily an issue of saving individual low-income households up to \$400 per year in energy costs, the direct heating assistance program could be an issue of low-income household

ALTERNATIVES

There are four alternatives:

(1) convert this into a true monthly program so that the distribution instructions could be included in the regular distribution matrix at TRD; or, (2) convert the program into a once-a-year, ex-post program so that any revenue transfer is only performed once a year as part of the annual closing processes. (3) find a more stable revenue source to earmark; (4) use the CPI energy costs index rather than the all commodities index.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The LIHEAP program will have to continue to rely on annual appropriations from the legislature or federal grants.

POSSIBLE QUESTIONS

Is it a good idea to earmark highly volatile revenue as a source for a life-critical expenditure program such as LIHEAP?

HSD indicates that it administers the LIHEAP weatherization program, but MFA also is responsible for the EnergySmart weatherization program. Are these two separate programs or one with divided responsibility?

Tax principals?

LG/ds