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FISCAL IMPACT REPORT

SPONSOR Griego DATE TYPED 2/15/05 HB _____

SHORT TITLE Regional Housing Definitions and Bond Sales SB 311

ANALYST Hadwiger

APPROPRIATION (in \$000s)

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB154.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)

Department of Finance and Administration (DFA)

New Mexico Mortgage Finance Authority (NMFA)

SUMMARY

Synopsis of Bill

Senate Bill 311 adds a definition of a “low-income person” as an individual, couple or family who lacks the amount of income that is necessary, as determined by rule of the a regional housing authority, to enable that individual, couple or family, without financial assistance, to live in a decent, safe and sanitary dwelling without overcrowding. SB311 eliminates the existing definition of a low-income person as any individual, couple or family whose gross income does not exceed eighty percent of the resident’s particular county median income and who cannot afford to pay more than thirty percent of his or her gross income for housing rent or mortgage payments. The bill authorizes the sale of bonds at no less than par at negotiated or public sale. Currently, bonds may be sold at public sale only, at no less than par. The bill also eliminates an existing requirement that the sale of bonds be advertised in a financial newspaper published in New York City for public sales.

Significant Issues

The proposed change to allow for negotiated sales for the sale of bonds would give the regional housing authorities an opportunity to secure better rates. Although not specified within the bill, it should be noted that tax-exempt bonds, unlike other publicly funded affordable housing resources, are subject to strict guidelines with regard to income eligibility and use.

DFA provided comments from regional housing directors as well as a bond consultant familiar with this program. The regional housing directors indicated that SB311 would mirror a bill that passed last year enabling MFA (through its HERO program) to serve families earning up to 140% of the area median income if a member of the household was a teacher, a police officer, firefighter, or a nurse. By changing the definition of a low-income person, the Regional Housing Authority will also be able to serve this population. The bond attorney noted that this language will mirror the definition of a low income person in the Municipal Housing Law (Section 3-45-1). In the past, due to the restrictive language in the Regional Housing Law, it has been difficult to work jointly with municipalities because they were able to serve a higher income base. This change puts the municipalities and the regional authorities on equal footing.

NMFA indicated two major concerns. First, the current definition for a low-income person (a household earning no more than 80% of the area median income) is consistent with the commonly accepted definition of low-income households eligible for most federal and state-funded housing programs. Funds provided by the state to regional housing authorities are usually subjected to the commonly accepted definition, as such funds are often used to match or leverage HUD funds. In fact, funding sources used to fund affordable housing programs always prescribe an income eligibility limit for households benefiting from the program. NMFA noted it is unclear why the regional housing authorities would want to depart from commonly accepted definitions that describe income eligibility, and it is doubtful that many affordable housing funding sources would submit to the authority's discretion on this important issue.

NMFA was also concerned that, although the regional housing law does not specify whether the bonds described therein are tax-exempt bonds or taxable bonds, it is important to note that tax-exempt bonds—not unlike other publicly funded affordable housing resources—are subject to strict guidelines with regard to income eligibility and use. If the regional housing law contemplates only the authorities' use of taxable bonds or their own revenues, income eligibility and use restrictions are not at issue.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates HB154.

TECHNICAL ISSUES

HSD noted that the definition in Section 1 F—“low-income person” (2) a low-income person as defined by the federal government,” is vague. The federal government allows for various percentages of the federal poverty guidelines.

OTHER SUBSTANTIVE ISSUES

DFA indicated the second substantive change, which adds negotiations as an acceptable means of acquiring a bond underwriter, simply reflects reality. By using the negotiated sale process, the authority should get the best terms because the underwriter is working with the authority throughout the process.

DFA noted that the other change to eliminate the requirement that the sale be advertised in a New York City financial paper eliminates an unnecessary and unproductive expense. Typically, the notice of issuance is published in a local paper for 30 days. However, the New York paper cost, at a minimum \$850, per ad and if there are any changes to the notice of issuance (such as the sale date), they have to readvertise and pay an additional \$850. The cost saved could go back into funding affordable housing.

DFA suggested that an amendment be considered to limit the revised low income definition (similar to what the MFA has in place) that would still allow the Authorities to capture some of teachers/cops/nurses market. The MFA capped the teachers/cops/nurses to 115% of the area median income.

POSSIBLE QUESTIONS

1. What are the possible disadvantages of defining “low-income” differently than common definitions under federal law?

DH/njw