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FISCAL IMPACT REPORT

ORIGINAL DATE 2/22/07

SPONSOR Grubestic LAST UPDATED _____ HB _____

SHORT TITLE Low Income Energy Assistance Act SB 546

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Human Services Department (HSD)

SUMMARY

Synopsis of Bill

Senate Bill 546 (SB 546) creates the “Low-Income Energy Assistance Act” to ensure that electric and gas rate increases do not force low-income New Mexicans to discontinue necessary services and to preserve the affordability of necessary energy services for low-income New Mexicans by providing assistance to meet their costs.

1. A public utility may provide assistance in the form of reduced rates for electric and gas service for persons meeting the eligibility criteria of one or more need-based assistance programs administered by HSD;
2. A public utility may provide assistance in the form of cost-effective conservation and efficiency programs and home weatherization services targeted specifically to persons meeting the eligibility criteria of one or more need-based assistance programs administered by HSD;
3. Public Regulation Commission (PRC) shall promulgate rules and regulations for the implementation the Act; and
4. Nothing in Chapter 62 NMSA 1978, including Section 62-8-6 NMSA 1978, shall prohibit the commission from approving reduced rates for persons who meet the eligibility criteria of one or more need-based assistance programs administered by

HSD.

FISCAL IMPLICATIONS

None identified, but there may be some administrative impact on the Human Services Department if their data is required to implement the bill.

SIGNIFICANT ISSUES

SB 546 is similar to SB 480, although this does not contain definitions of the terms used throughout the Act. It is assumed that the commission in SB 546 is the Public Regulation Commission, although it is not expressly stated. In addition, SB 546 uses the term “may provide” assistance while SB 480 uses “permit” assistance.

PRC, in its analysis of SB 480, indicates:

Utilities have reported to the Commission that it will be burdensome for them to identify and verify on an ongoing basis which customers are eligible for reduced rates. The Commission would have to evaluate the cost-effectiveness of any such low income program proposed by a public utility.

The objective of traditional utility rate design is to promote just and reasonable rates under which each class of customers (e.g., residential, small commercial, etc.) is responsible for its fair share of the costs incurred by the utility to provide services. Great effort is taken to prevent, or to minimize in situations to reduce rate shock, cross subsidies within and across utility customer classes. Existing statutes reflect traditional rate design principles, under which discrimination in utility rates charged to consumers within customer classes is not allowed without an express exception.

One concern of offering reduced rates to low income customers is it may be necessary for the utility to charge all other customers higher rates to recover all its costs. A "hidden tax" on utility ratepayers may not be the most effective or fairest way of supporting access to utility services among vulnerable populations.

Proponents of low income affordability programs have reported that such programs can be cost-effective and provide system benefits by reducing the costs associated with arrearages and bad debts.

If low income rates are reduced significantly, it is feared that the financial incentives on these customers to engage in energy efficiency or conservation measures will be reduced if affordability programs are not accompanied by an education component.

HSD is concerned that because SB 546 uses the term “may provide”, public utilities would not opt to charge a reduced rate to low-income customers.

HSD indicates that it is unclear how individuals would qualify and apply for this new program. “Eligible” for needs-based program administered by HSD may be different from receiving or eligible and receiving a needs-based program administered by HSD. It is unclear whether utility companies would be making the determination of eligibility under SB 480 so that they may apply the discount or whether there would be some HSD involvement. Any eligibility

determinations will be extremely complicated, time-consuming and problematic since there are over 40 needs-based programs administered by HSD ranging in eligibility from 85% of Poverty in the Temporary Assistance to Needy Families (TANF) Program to the Breast and Cervical Cancer Medicaid Program at 250% of poverty. HSD caseloads are quite extensive. Any automatic data match through an information technology system would be limited to current recipients rather than those that could be “eligible”.

SB 546 would expand the utility assistance services currently available under the Low Income Utility Assistance Act, §§ 27-6-11 to 27-6-16 NMSA 1978 (the “Act”). Depending on how the eligibility requirements of SB 546 are interpreted, SB 546 may also increase the services to indigent persons already eligible for services under the Act, particularly in the area of weatherization.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 546 relates to Senate Bill 480.

TECHNICAL ISSUES

SB 546 does not contain definitions of the terms used throughout the act. SB 546 does not identify the administrating agency.

PRC notes that Section 62-8-6 prohibits any unreasonable preference or advantage to any corporation or person as to rates or service. The statute expressly allows the commission’s approval of “economic development rates and rates designed to retain load.” For consistency the inclusion of low-income energy programs into NMSA §62-8-6 might be considered.

BE/mt