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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/24/08

SPONSOR Lopez LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Home Energy Relief Fund Distributions SB 189

ANALYST Weber

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
(\$1,960.9)	(\$10,732.3)	(\$10,565.6)	Recurring	General Fund
\$1,960.9	\$10,732.3	\$10,565.6	Recurring	Home-Energy Relief Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)

Human Services Department (HSD)

Energy Minerals and Natural Resources (EMNR)

### SUMMARY

#### Synopsis of Bill

Senate Bill 189 amends Section 6-4-25 NMSA 1978 (being Laws 2005 (1st S.S.), Chapter 2, Section 1 titled Gasoline and Home Heating Relief Fund. These amendments include (1) a provision to include distributions to this fund for the Human Service Department (HSD) Low Income Home Energy Assistance Program (LIHEAP) in the amount equal to thirty-three and thirty-three hundredths percent of the net receipts attributable to the natural gas processors tax imposed and collected pursuant to Section 7-334 NMSA 1978; and (2) changes the name of the fund to the Home Energy Relief Fund.

The distribution requires the use of funds for utility assistance payments and for weatherization and energy efficiency programs, which shall comprise at least fifty percent of the expenditures from the fund.

SB 189 also makes minor adjustments to terminology such as striking “head of the department” and replacing it with “secretary of human services or the secretary’s designated representative.”

## FISCAL IMPLICATIONS

DFA notes SB-189 distributes 33.33 percent of the natural gas processors tax to the newly created Home Energy Relief Fund effective July 1, 2008. The current revenue related to the net receipts of the natural gas producers tax is \$35 million annually. The diversion results in a reduction in General Fund Revenues starting two months prior based on modified accrual accounting and will total \$1.9 million for FY08 and \$10.5 million in the following years based on the current revenue level.

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

HSD notes that the distribution requires the use of funds for (1) utility assistance payments and for (2) weatherization and (3) energy efficiency programs, **which shall comprise at least fifty percent of the expenditures** from the fund. It is not clear if the fifty percent is meant for weatherization and/or energy efficiency programs or for all three programs. If for all three programs, it is not clear to what the intended distribution of fifty percent remainder should be applied. It is also not clear as to whether weatherization and energy efficiency program are two programs or one. Without this clarification, HSD assumes that at least \$5 million dollars of the \$10.2 million will be available for utility assistance payments. The additional funding could allow HSD to serve up to 85,497 LIHEAP households at the current average benefit of \$140 (based on \$19 per point); or HSD could increase the average benefit to \$180 (based on \$25 per point) and serve 64,978 households.

General Fund monies for this purpose may be credited toward the Temporary Assistance for Needy Families (TANF) Maintenance of Effort (MOE) monies when used to serve low-income households with dependent children. Over \$4 million in Temporary Assistance for Needy Families (TANF) Maintenance of Effort (MOE) was claimed in FFY 2207 using LIHEAP General Fund monies appropriated during the 2007 Legislative Session.

## SIGNIFICANT ISSUES

LIHEAP is a grant from U.S. Department of Health and Human Services (HHS) that helps New Mexico low-income families meet the costs of home heating and cooling one time per year and increase energy self-sufficiency and reduce vulnerability resulting from energy needs. HSD is the recipient of the federal LIHEAP funds. Up to 15% of the grant may be used for weatherization, or 25% with an approved waiver. HSD and the Mortgage Finance Authority enter into an agreement each year to provide funding for weatherization from the LIHEAP grant.

SB 189 makes a distribution from the net receipts attributable to the natural gas processors tax imposed and collected, but SB 189 does not indicate whether the net receipts are for the current or any past year, nor does SB 189 provide a dollar amount. Without this information, it will be very difficult to make decisions about LIHEAP benefit levels for each LIHEAP year.

**TECHNICAL ISSUES**

Consideration may be given to changing the effective date to reference revenues earned on a modified accrual basis on or after July 1, 2008 to avoid an FY08 fiscal impact.

MW/nt