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FISCAL IMPACT REPORT

ORIGINAL DATE 02/18/13

SPONSOR Garcia, M.P. LAST UPDATED _____ HB 331

SHORT TITLE Extraction Taxes For Home Energy Assistance SB _____

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
\$0.0	(\$12,100.0)	(\$12,100.0)	(\$12,300.0)	(\$10,300.0)	Recurring	General Fund
\$0.0	\$12,100.0	\$12,100.0	\$12,300.0	\$10,300.0	Recurring	LIHEAF

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Mortgage Finance Authority (NMFA)
 Human Services Department (HSD)
 Taxation and Revenue Department (TRD)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House bill 331 enacts a new section of the tax administration act; section 7-1-6.61 creates the low-income home energy assistance fund (LIHEAF). Distribution to this fund will be from extraction taxes suspense fund, section 7-1-6.20. The amount transferred depends on the excess of school tax distributions over the CPI-indexed school tax distributions to the general fund in FY 2010.

Money in the low-income home energy assistance fund is appropriated to HSD for expenditure for the low-income home energy assistance program (LIHEAF).

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends (June 14, 2013). There is no sunset date. The LFC recommends adding a sunset date.

FISCAL IMPLICATIONS

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations. Even though revenue estimators expect continued growth in oil production in the near future, revenues received from oil and gas revenues can be volatile. Any distributions from the oil and gas emergency school tax to the LIHEAF will negatively impact the general fund.

TRD and LFC uses the February Global Insight forecast of the consumer price index for all urban consumers. LFC calculated the distribution using the February 2013 consensus revenue estimate of oil & gas school tax revenue. TRD applied the same calculation but used the December 2012 revenue estimates.

LIHEAF Calculation by LFC (in millions of dollars)								
	CY09	CY10	CY11	CY12	CY13	CY14	CY15	CY 16
CPI Index (%)		2.18	2.25	2.3	2.33	2.37	2.41	2.45
	ACTUAL			FORECAST				
	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17
Oil & Gas School Tax (MM)	\$324.5	\$378.7	\$399.6	\$376.4	\$407.5	\$413.3	\$420.0	\$416.2
Base Amount (MM)			\$334.9	\$342.4	\$346.8	\$352.8	\$358.7	\$364.7
Difference			\$64.7	\$34.0	\$60.7	\$60.5	\$61.3	\$51.5
20% of the difference (MM)			\$12.9	\$6.8	\$12.1	\$12.1	\$12.3	\$10.3

The appropriation contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY14 shall not revert.

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.

According to the TRD, if the earmarked revenue is contingent upon revenue growth (as in HB-331), there may be years in which no revenue will be transferred. Another issue with this proposal is that the distribution is reliant on the excess of any current fiscal year emergency school tax funds over the CPI-indexed amount from FY2010. Thus, the transfer will only be made in May or June of the fiscal year – well after the season of maximum need.

SIGNIFICANT ISSUES

(HSD administers 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 \$21,595,426 and \$15,744,108 for FFY11 and FFY12, respectively. In FFY12, HSD assisted 73,164 individuals with an average benefit amount of \$118/per household. Year to date in FFY13, HSD has assisted 36,241 individuals with an average benefit amount of \$122/per household.

The New Mexico Mortgage Finance Authority (MFA) currently receives a percentage of LIHEAP funds to operate its Weatherization Assistance Program, NM EnergySmart. HB 331 is silent on whether, in a similar manner, MFA would receive a percentage of funding from the new LIHEAF. If received, additional funding would enable NM EnergySmart to weatherize more homes.

PERFORMANCE IMPLICATIONS

HB331 relates to HSD's FY14 Strategic Plan, Goal 2 which identifies the purpose of the Income Support Division (ISD) is to assist eligible low-income families through cash, food, medical, and energy assistance and supportive services so they can achieve self-sufficiency.

MFA estimates more than 85,000 New Mexico homes are eligible for weatherization services through NM EnergySmart. In the past three years, MFA's partners have weatherized more than 4,000 homes statewide using \$27 million in stimulus funding. Stimulus funds are gone and federal cutbacks have occurred, yet the need remains. Thousands of low-income families continue to live in homes with inadequate heat, leaky or missing windows, or unsafe conditions. Because of these conditions, low-income homeowners may spend up to 25 percent of their monthly budgets on energy costs, compared to about 5 percent for higher income homeowners. If a percentage of increased funding for LIHEAP were transferred to MFA, service providers could weatherize more homes than would otherwise be possible, resulting in significant savings for low-income people and dozens of jobs.

ADMINISTRATIVE IMPLICATIONS

This bill has low impact on the distribution process. The Financial Distributions Bureau (FDB) of the TRD will participate with the ONGARD and the Tax Policy Office in the design, evaluation, processing and reporting changes that would be required. Once the programming and reporting changes are made for the distribution from the extraction tax suspense fund to the LIHEAF in ONGARD, FDB staff will need to verify the changes by performing selected tests of data and functionality, prior to authorizing IT to move changes into production. Programming and reporting changes and testing would need to be completed by 90 days following adjournment (June 14, 2013). Within the state's central accounting system (SHARE) a new fund and subaccounts would need to be created by FDB staff to account for this distribution. FDB would need to obtain the accounting stream from the Department of Human Services in order to make this distribution to the Low-Income Home Energy Assistance Fund. FDB will need to modify the operating transfer order template to add this monthly distribution

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 33: Expand Low-Income Residential Energy Program requests a \$1 million appropriation for NM EnergySmart.

TECHNICAL ISSUES

According to TRD, the use of the phrase "tax imposed" rather than "tax paid" on page 3, line 18 will cause difficulties. The Extraction Tax Suspense Fund is a holding account tax fund. It holds payments for distribution until the payments have been associated with a return. At times, payments are submitted late, payments are submitted without returns, payments are held because

of return issues and payments are held because of litigation risk. Any attempt to move money out of this account before the payments have been matched to returns could prove problematic. The Department strongly recommends amending the bill to “taxes paid” to avoid this outcome.

Administration of the new fund is not specified, though it will presumably be administered by the State Treasurer’s Office as are other self-earning accounts. It might be beneficial to include such language.

Does the bill meet the Legislative Finance Committee tax policy principles?

- 1. Adequacy:** Revenue should be adequate to fund needed government services.
- 2. Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
- 3. Equity:** Different taxpayers should be treated fairly.
- 4. Simplicity:** Collection should be simple and easily understood.
- 5. Accountability:** Preferences should be easy to monitor and evaluate

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