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FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/06
 SPONSOR Rodriguez LAST UPDATED 2/6/06 HB _____
 SHORT TITLE Santa Fe Teacher Affordable Housing Program SB 738
 ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
\$1,000.0		Non-Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 New Mexico Mortgage Finance Authority (MFA)

SUMMARY

Synopsis of Bill

Senate Bill 738 appropriates \$1 million from the general fund to the Department of Finance and Administration for the purpose of making disbursements to the New Mexico Mortgage Finance Authority (MFA) to make awards to one or more grantees for the development and implementation of an affordable housing program for teachers in the Santa Fe School District in compliance with the Affordable Housing Act.

FISCAL IMPLICATIONS

The appropriation of \$1 million contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2011 shall revert to the general fund.

The Affordable Housing Act (enabling legislation for the affordable housing exception to the anti-donation clause of the New Mexico state constitution) permits the state, counties, and municipalities to “donate” land and/or buildings, and “provide or pay the costs of” infrastructure to support affordable housing projects. The exception permits governments *only to donate land and existing buildings they own; unlike infrastructure, which can be paid for or provided*. The exception does not cover monetary contributions or donations for land and buildings.

Chapter 105 (Senate Bill 115) created the New Mexico Housing Trust Fund to be managed by MFA in conjunction with a New Mexico Housing Trust Fund Advisory Committee. The fund was capitalized by a \$10 million appropriation from the general fund within Chapter 347, the

capital outlay bill. MFA is allowed to use money from the fund for actual expenses incurred in administering the fund in an amount not to exceed five percent of total funds disbursed from the fund. The State Investment Council will serve as the investment agent for the fund in order to realize the highest possible returns.

The purpose of the trust fund is to provide flexible funding for housing initiatives that could leverage other funding sources for housing in the state and to provide affordable housing for persons of low or moderate income. Persons of low or moderate income are defined as “persons and households within the state who are determined by the authority to lack sufficient income to pay enough to cause private enterprise to build an adequate supply of decent, safe and sanitary resident housing in their locality, or in an area reasonably accessible to their locality and whose incomes are below the income levels established by the authority.”

SIGNIFICANT ISSUES

The MFA indicates that under current law, MFA cannot provide state-funded grants or loans that are “significantly” below market rates to facilitate the acquisition or donation of real property for affordable housing. The MFA would have to first acquire property by lease or purchase to contribute to a real property transaction, then re-lease or re-sell it for the affordable housing purpose. This restriction also applies to local governmental entities wishing to use state or local funds as grants or below-market rate loans to facilitate the acquisition of real property for affordable housing purposes.

The MFA offers the following conditions in order to award funds to one or more grantees:

- “1. The MFA could provide these funds as either below-market rate loans or grants to offset infrastructure costs (as defined in the Affordable Housing Act) associated with building new affordable rental or for-sale homes specifically for Santa Fe public school teachers
2. The MFA could provide these funds as either below-market rate loans or grants to offset infrastructure costs (as defined in the Affordable Housing Act) associated with acquiring and rehabilitating affordable rental or for-sale homes specifically for Santa Fe public school teachers
3. The MFA could provide these funds as loans to facilitate other affordable housing activities, but the loans would have to have terms that would qualify them as “fair consideration”.”

OTHER SUBSTANTIVE ISSUES

The New Mexico Housing Trust Fund Advisory Committee consists of nine members who shall represent geographically the state, affordable housing advocates and practitioners. The nine members will consist of three public members appointed by the governor; three public members appointed by the President Pro Tempore of the Senate; and three public members appointed by the Speaker of the House of Representatives. Members of the committee shall be appointed for two-year terms and be eligible for reappointment. (Attachment A - HTF Advisory Committee)

Appointments to the advisory committee were named, and program guidelines and policies were developed by MFA. Statute requires that trust funds be awarded on a competitive basis and required MFA to develop an application and scoring mechanism that encourages applicants to develop solutions responsive to local needs consistent with sound housing policy.