

LFC Requester:	Jeannae Leger
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date January 20, 2024
Bill No: SB 71

Sponsor: Michael Padilla

Agency Name and Code New Mexico Mortgage Finance Authority (MFA) 992
Number: _____

Short Title: Create Office of Housing

Person Writing Robyn Powell
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NA	NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$1,000	750	750	\$2,500	Recurring	

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

SB 71 creates an Office of Housing that is administratively attached to the Department of Finance and Administration. The stated purpose of the Office of Housing is to:

- Develop, update and submit the state housing plan, and make recommendations for statutory and executive changes necessary to implement the state housing plan.
- Study, evaluate and coordinate housing across jurisdictions.
- Provide technical assistance to local governments and developers in assembling funding packages and project management of housing and necessary infrastructure development for housing projects and for the promotion of public-private partnership agreements.
- Provide technical assistance and training in developing housing plans in alignment with the state housing plan.
- Identify programs to build competency in housing finance and development.
- Coordinating funding in accordance with the state housing plan.
- Promote regional plans or programs that implement recommendations of the state housing plan.
- Coordinate across state agencies, state and regional housing authorities and appointed commissions or councils on housing to implement actions for housing or supportive housing services within their existing authority.
- Collect and report data to describe and monitor the housing market and establish housing production goals.
- Evaluate housing data to identify adequate progress toward housing production goals and adherence to agreements.
- Track housing investments and initiatives to measure the success and impacts, monitor efforts to meet housing goals and necessary policy changes or resource investment to achieve the goals and make findings publicly available.
- Perform other duties identified by the office or assigned by the governor or the legislature to ensure that the state meets or exceeds the housing goals delineated in the state housing plan.

The bill mandates that state agencies, the New Mexico Mortgage Finance Authority (MFA), and the New Mexico Finance Authority (NMFA) engage in coordination and planning efforts with the Office of Housing. The bill also amends the MFA Act by adding the Director of the Office of Housing to serve as a non-voting member on MFA's Board of Directors.

FISCAL IMPLICATIONS

In creating an Office of Housing, the passage of this bill would result in reoccurring operating expenditure to the State. The fiscal implication will be dependent on the eventual size of the office and staffing levels. The initial request based on the Governor's budget recommendation is \$1,000,000.

SIGNIFICANT ISSUES

The purpose and activities of the housing office, as established by SB 71, duplicate the mission and the work that is currently performed by the New Mexico Mortgage Finance Authority (MFA). Creating a duplicative agency may decrease administrative efficiency of resource deployment and convolute the high level of coordination among housing stakeholders that currently exists. The paragraphs below describe how MFA is meeting the need for a designated housing agency. More specific points of duplication are presented in the "CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP" section.

New Mexico's Designated Housing Agency. The state legislature created MFA in 1975 and it was designated as the state's housing agency in 1998. With nearly 50 years of agency experience and a staff of more than 120 employees dedicated to providing affordable housing opportunities, MFA has a proven record of impact and accountability, having served over 500,000 households and over 3 decades of unmodified audits.

MFA administers over 40 programs delivered at the local level through a network of over 350 private/public partnerships to address the full spectrum of housing needs. MFA does not receive state funding for operations.

Leadership and Accountability. While the legislature created MFA as a quasi-governmental entity, separate and apart from the state, for the performance of essential public functions, MFA leadership and oversight bodies are largely connected to the office of the governor and the legislature. The state treasurer, state attorney general, lieutenant governor, along with four governor appointees, comprise MFA's Board of Directors. MFA reports regularly throughout the year to its legislative oversight committee and the Legislative Finance Committee. Additionally MFA has several advisory committee whose members are appointed by the Governor, Speaker of the House and Senate President Pro Tempore to oversee and advise on funding sources to include the New Mexico Housing Trust Fund. As a quasi-governmental entity, MFA is subject to strong leadership and oversight while maintaining administrative flexibilities to respond urgently to New Mexico's housing needs.

New Mexico's One-Stop Housing Shop. In its 2023 fiscal year MFA administered nearly \$600 million for affordable housing programs from federal, state, and private funders. With these resources all housed under one roof, MFA leverages funding for maximum impact, underwrites projects for financial feasibility, ensures program compliance, and operates with a high level of efficiency.

MFA, as Trustee of the New Mexico Housing Trust Fund (NMHTF), administers state funding that until recently had been sporadically appropriated. Based on its research into New Mexico's housing needs, MFA advocated for a more significant investment in housing and the legislature responded by authorizing recurring funding to the NMHTF of 2.5% of severance tax bond capacity (2022 SB134) and starting with state fiscal year 2024 (July 1, 2023 – June 30, 2024 (2023 SB381), resulting in \$37.5 million in state fiscal year 2024. MFA prioritizes deploying public resources as urgently as possible and has committed 100% of NMHTF appropriations to a

project or program. The NMHTF income limits, included as Attachment 1, serve low and moderate income households, including those in the workforce.

Leader in Planning, Evaluation, and Coordination. In 2022, MFA developed the New Mexico Housing Strategy that quantifies the continuum of housing needs, presents extensive stakeholder feedback, incorporates the perspectives of New Mexico residents, and provides policy recommendations to improve housing opportunities in New Mexico. Based on the findings, MFA established within the New Mexico Housing Strategy, a framework (policy recommendations) for housing stakeholders to create transformative change to the state's housing opportunity landscape: create more housing, preserve and improve existing affordable housing, provide homeownership opportunities, and create stable housing environments for vulnerable populations.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

MFA's Board of Directors establishes MFA's strategic and policy priorities and its legislative oversight committee ensures MFA is delivering on New Mexico's housing needs. Mandating additional layers of coordination (as SB 71 does) would interfere with the responsibilities of MFA's Board of Directors and confuse the responsibilities of its legislative oversight committee.

MFA currently partners with multiple state agencies that rely on MFA to deliver housing programs, including Department of Finance and Administration, Behavioral Health and Human Services, Children Youth and Families Department, and the Non-Metro New Mexico Area Agency on Aging, as well as the Councils of Governments, local and tribal jurisdictions, and the private sector.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The following sections describe the duplication between the proposed Office of Housing and MFA.

Section 1 E. (1) Submit a State Housing Plan Every Year. MFA has published a statewide housing needs assessment annually, which draws on quantitative data and academic research to evaluate the state of housing in New Mexico. In 2022 MFA published the New Mexico Housing Strategy report with the assistance of a diverse nineteen-member Advisory Committee, which was representative of the full housing continuum. The initiative performed and documented a comprehensive needs, resources and gap analysis and developed strategies to fill the gaps. This strategy completed additional analysis to determine production goals for the state, identify barriers to production and housing security, and ultimately provided a framework for investment and coordination across partners. Research and data gathering included over 10 focus group meetings that included nearly 100 participants and a statewide survey that received responses from nearly 1,400 residents. (To find the complete Strategy visit <https://housingnm.org/the-new-mexico-housing-strategy>).

In addition to the needs assessments and Strategy, MFA completes numerous plans for its federal programs, including the Housing and Urban Development (HUD) Consolidated Plan and Annual Action Plan, the Department of Energy (DOE) Weatherization State Plan and the Department of Treasury Internal Revenue Services (IRS) Qualified Allocation Plan (QAP) for the Low-Income Housing Tax Credit (LIHTC) program.

Section 1 E. (3) Provide Technical Assistance to Local Governments and Developers. MFA has provided technical assistance to its network of partners since its creation in 1975. In its oversight of the Affordable Housing Act, MFA has supported and funded local governments' affordable housing plans and development plans. Throughout the year MFA facilitates training on its programs to ensure MFA deploys all funding available with maximum impact and efficiency. In 2023 MFA provided 210 trainings to its partner network. MFA serves all counties in New Mexico and in 2023 assisted households in 31 of the state's 33 counties. MFA also has partnerships and has provided funding to New Mexico Tribes and Pueblos to improve housing conditions and opportunities in these communities. Recent examples of Tribal partnerships include home rehabilitation with Ohkay Owingeh and San Felipe Pueblo Housing Authority, technical assistance for Pueblo of Jemez Housing Authority, Santo Domingo Housing Authority, Pueblo of San Ildefonso, Pueblo of Zia, Weatherization Day with Mezalero and the Navajo Nation, and the Hozho Recovery Center that will serve Navajo Tribal members. Another example is a current contract with the North Central New Mexico Economic Development District to provide training and technical assistance to five different entities in the north central district.

Section 1 E. (5) Assist MFA and NMFA in Coordinating Funding for Housing. As New Mexico's primary administrator of federal, state, and private affordable housing funding, MFA serves as New Mexico's one-stop shop for affordable housing development and services. While MFA does regularly coordinate with state agencies that rely on MFA to deploy funding for housing programs, mandating a layer of administrative coordination could add complexities, which in turn add to delays and the cost of housing development and programs.

Section 1 E. (8) Collect and Report Data at Least Annually. MFA and its partners collect and report extensive housing data, including population, market, and program outcome data. MFA reports data in its Consolidated Plans, Annual Action Plans (CAPERs) to HUD, DOE, Treasury, its oversight bodies, and numerous other funding agencies to include Department of Finance and Administration (DFA) and Human Services Department (HSD).

Further, the Homelessness Management Information System (HMIS) that the New Mexico Coalition to End Homelessness oversees, is a comprehensive data collection and reporting program for homelessness services providers across the state. HMIS operations are federally funded and provide rich information on homelessness needs and programs in the state. Duplicating existing data collection efforts and requirements draws resources, including staff capacity, away from service delivery.

Section 1 E. (10) Monitor Adherence to Use and Restriction Agreements. MFA's Asset Management Department employs 10 full-time staff to oversee compliance of 345 affordable housing properties with over 25,000 units. Compliance monitoring entails extensive knowledge of varied programmatic regulations, reviews of property quality and client files to ensure the assets are satisfying income limits and maintaining high quality dwellings.

Section 1 F. Requiring MFA to Participate in the State Housing Plan. In October 2022 MFA published the New Mexico Housing Strategy. The Strategy outlines four key action areas to advance housing opportunities: Create more housing, Preserve and redevelop existing housing, expand homeownership and wealth building opportunities, and Create stable housing environments. The recommendations within each action area continue to provide relevant policy guidance. MFA is currently conducting its annual update of the quantitative data included in the

strategy. In addition to making the NM Housing Strategy widely available to all stakeholders, , MFA would continue to share its production data, progress in meeting the need, updates and other analysis to support changes to the state plan.

Section 2. Adding an ex-officio member to MFA’s Board of Directors. Presently three of the seven members of the governor’s staff currently serve on MFA’s Board of Directors: the lieutenant governor, state treasurer, and attorney general. The other four members are senate confirmed governor appointees.

TECHNICAL ISSUES

Compliance with Anti-Donation. Through the enabling legislation of the Affordable Housing Act, the New Mexico state constitution permits donations (i.e. funding) for affordable housing initiatives. The Affordable Housing Act defines affordable housing as housing for households at or below 150% area median income. (See Attachment 1: Example Affordable Housing Income Limits). The intention of the exception is to address affordable housing solutions for persons of low or moderate income, including those in the workforce.

Compliance with Mortgage Finance Authority Act. The MFA Act (Chapter 58, Article 18 NMSA 178, 58-18-4 Authority Created) created MFA as a public body politic and corporate, separate and apart from the state, stating MFA is not subject to the supervision or control of a board, bureau, department or agency of the state. Mandated coordination beyond typical interagency partnerships, as MFA has with certain state agencies to deliver funding, would violate the MFA Act.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

ATTACHMENT 1: New Mexico Housing Trust Fund Affordable Housing Income Limits

County	2023 Median Income	150% AMI Income
Bernalillo	\$ 86,500	\$129,750
Catron	\$ 58,100	\$87,150
Chaves	\$ 64,600	\$96,900
Cibola	\$ 65,100	\$97,650
Colfax	\$ 60,500	\$90,750
Curry	\$ 66,000	\$99,000
DeBaca	\$ 74,900	\$112,350
Dona Ana	\$ 59,600	\$89,400
Eddy	\$ 92,000	\$138,000
Grant	\$ 66,700	\$100,050
Guadalupe	\$ 49,800	\$74,700
Harding	\$ 61,700	\$92,550
Hidalgo	\$ 66,300	\$99,450
Lea	\$ 65,200	\$97,800
Lincoln	\$ 68,100	\$102,150
Los Alamos	\$ 168,500	\$252,750
Luna	\$ 52,900	\$79,350
McKinley	\$ 55,800	\$83,700
Mora	\$ 50,000	\$75,000
Otero	\$ 69,300	\$103,950
Quay	\$ 46,100	\$69,150
Rio Arriba	\$ 70,700	\$106,050
Roosevelt	\$ 69,000	\$103,500
Sandoval	\$ 86,500	\$129,750
San Juan	\$ 61,100	\$91,650
San Miguel	\$ 52,800	\$79,200
Santa Fe	\$ 95,600	\$143,400
Sierra	\$ 62,200	\$93,300
Socorro	\$ 56,600	\$84,900
Taos	\$ 71,900	\$107,850
Torrance	\$ 86,500	\$129,750
Union	\$ 54,500	\$81,750
Valencia	\$ 86,500	\$129,750