F I S C A L   I M P A C T   R E P O R T

SPONSOR Fidel **DATE TYPED** 10/07/05 **HB**

SHORT TITLE Gasoline and Home Heating Relief Fund **SB** 2

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APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	$24,500.0			Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 8

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	Uncertain		Non-Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From

SUMMARY

Synopsis of Bill

Senate Bill 2 appropriates $24.5 million from the GENERAL FUND to the Human Services Department for the purpose of providing economic relief to New Mexico citizens due to high energy prices. In addition, the bill creates a fund at DFA for donations to be used for purposes related to high energy process.

Section 1 creates the Gasoline and Home Heating Relief Fund in the state treasury to be administered by the Department of Finance and Administration. The fund shall consist of appropriations, gifts, grants and donations and is appropriated to DFA. The funds are to be used for providing gasoline price rebates to New Mexico taxpayers, to provide economic relief for New Mexico taxpayers burdened as a result of high gasoline price, to provide economic relief for those suffering from high home heating costs and for the LIHEAP program. Balances in the fund shall not revert.

Section 2 appropriates $24.5 million from the general fund for the following purposes.

1. $20 million to the Human Services Department for the low income heating assistance program (LIHEAP)
2. $1.5 million to the Department of Finance and Administration for state wide weatherization programs.
3. $1.5 million to the Department of Public Safety for fuel costs.
4. $1.5 million to the Public Education Department for school district bus fuel and utilities costs.

These funds are for expenditure during FY06. Unexpended funds remaining in agency accounts at the end of FY06 shall revert to the general fund.

Significant Issues

Regarding Section 1, the bill does not provide adequate measures to determine who should contribute to the fund and how much they should contribute. Relying on voluntary undefined contributions from private entities may lead to problems administering the fund. Consistency in the revenues and distributions of a fund designed to assist needy residents is crucial.

Smaller operations may be less capable of donating to the fund than larger ones but still feel compelled to contribute. There may be significant fiduciary issues regarding publicly held companies and their ability to contribute and maintain their commitments to their shareholders.

There may be a substitution of donations from the community in which a company operates to the fund. Many smaller communities, for instance, receive a great deal of support and charity from oil and gas companies and any donations to the proposed fund may come out of those community activities.

The fund has too few safeguards on distribution. First, it is appropriated to DFA, which means that the funds are expended at the discretion of the executive. Second, the purposes to guide DFA are vague. Third, since the revenues to the fund are intended to be voluntary contributions, there should be language to completely distribute the fund on a regular basis. Unexpended balances, per the bill, will not revert to the general fund but there should be a mechanism to distribute donations as expediently as possible for maximum impact.

The legislation calls for the fund to be appropriated to the department of finance and administration (DFA) for the following purposes:

1. to provide gasoline tax rebates to New Mexico taxpayers,
2. to provide economic relief to New Mexico taxpayers suffering from rapidly increasing home heating costs, and
3. to augment the low income heating assistance program.

It is unclear how “economic relief” is going to be different then “gasoline tax rebates.” The former allows much more latitude in the disbursement of the funds. The first purpose also does not have the high price qualifier which suggests greater latitude in triggering rebates.

There are no definitions of "extremely high gasoline prices" or "rapidly increasing home heating costs." Currently prices have been fluctuating from $2.70 to as high as $3.00. If the prices are the same in one year, should they still be considered "extremely high" or will they have set a new level?

Section 2 appropriates funds to agencies to offset high energy costs for a variety of purposes.

SB 2 appropriates $20 million to HSD to augment the Low Income Home Heating Assistance Program (LIHEAP). The federal government provided funding of $9.9 million to LIHEAP in FY 2005. Assuming that funding from the federal government will remain the same in FY 2006, with the addition of the $20 million from the general fund and with $800 thousand of unused federal funds from prior years, the potential FY06 budget will equal $30.7 million

The objective of the Low Income Home Energy Assistance Program (LIHEAP) is to assist the energy needs of low income households. Within this population additional consideration is made for households with vulnerable populations such as young children, older individuals and individuals with disabilities.

Households that have incomes below 150% of the federal poverty guidelines (FPG) (approximately $1960/month for a family of three) are eligible to receive benefits. The monetary benefits to households are based on a point system which translates into a specific dollar amount of assistance. The point system takes a number of factors into consideration: vulnerable populations, income levels, and energy costs. For FY 2005, one point was worth $20 and the average benefit was $128. The average benefit to households in FY 2006 at the current $20 value will be $142. If the approximate 55,000 households served in FY05 receive the $142 benefit the total expended will be $7.8 million. Moving the $20 award to $80 would expend over $29 million or the approximate amount available.

It is important to note that only 30 percent, about 55,000 households, of all eligible households currently receive benefits. More households may apply for LIHEAP in the coming year for the following reasons:

- Outreach by a greater number of community and senior centers
- Outreach by the Association of Community Organizations for Reform Now (ACORN) providing in home visits to assist with the application process
- Support from AARP
- Online LIHEAP applications in English and Spanish
- Greater financial needs motivating the 70% (LIHEAP Clearinghouse) of eligible households not being served

MFA administers home weatherization projects. Traditionally weatherization funds are appropriated to DFA and then "passed through" to MFA. Other funds may come from HSD from LIHEAP

According to MFA 630 applicants remain on the waiting list. Based on the average of approximately $3,600/unit, $2.5 million would be required to service the homes on the waiting list.

More monies available for weatherization front rather should tend to reduce bills and provided continuing relief for recipients even though the funds may be considered non-recurring.that will continue to rise unless the homes are serviced for energy efficiency.

Of the federal LIHEAP funds, HSD is allowed to expend up to 25% of the federal funds for home weatherization. However, of the approximate $10 million HSD federal funds traditionally MFA receives approximately 15 percent.

The Department of Finance and Administration (DFA) has received special appropriations almost every year to pay for weatherization of homes of low-income persons, typically in the range of $800 thousand - $1.0 million per year. DFA provides funding through a JPA to the Mortgage Finance Authority to administer the program. The table below shows appropriations for this program in recent years.

FY06:	$800.0 special appropriation
FY05:	$800.0 special appropriation
FY04:	$0
FY03:	$1 million
FY02	$1 million

SB 2 appropriates $1.5 million to DPS for gasoline expenses. DPS has reported that their operating budget for FY06 is not sufficient to cover the increases in the cost of gasoline. The LFC, DFA, Taxation and Revenue Department (TRD) and the Department of Transportation (DOT) developed a consensus on the price forecast for regular unleaded gasoline in FY06 at $2.65/gallon. DPS does not pay the $.17 cents in taxes on gasoline. Therefore, DPS estimates for FY06 projected mileage of 16,078,130 at 13.52 miles per gallon with gasoline at $2.48 per gallon would cost $2,949,243. DPS reports their FY06 general fund budget for gasoline is $1,436,600. The department projects a deficit of $1,512,643 for gasoline in FY06. DPS's operating budget for FY06 states $1,559,300 was appropriated for gasoline in the Law Enforcement Program.

SB 2 appropriates $1.5 million for school district bus fuel and utility increases for the remainder of FY06. The Public Education Department notes PNM estimates an average increase in heating fuel costs of 50 percent for December, January and February. This results in an increase in heating fuel costs of $2.6 million. It is important to note this amount does not include increases in electrical costs over the same time frame. Electricity producers nationwide have moved more to natural gas fuel to power electrical generating stations and increases for electricity are expected as well. With regard to bus fuel needs, the department estimates a price differential of approximately 12 cents per gallon of diesel leading to a calculated need of $400 thousand. Interestingly, these estimates mirror portions of the agency request during the last budget cycle and supporting documentation does not reflect any calculations regarding use projections district by district.

The agency expects to utilize $1.5 million of unbudgeted funds from the FY06 emergency supplemental appropriation and the $1.5 million contained in the bill.

FISCAL IMPLICATIONS

The appropriation of $24.5 million contained in this bill is a NON-RECURRING expense to the GENERAL FUND. Any unexpended or unencumbered balance remaining at the end of FY06 shall revert to the GENERAL FUND.

Regarding Section 1, SB 2 creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

There will potentially be greater demands on the HSD Income Support Division offices since only about 30 percent of the eligible population is currently participating in LIHEAP. As the availability of funds is publicized many more eligibles may apply creating an administrative burden on the ISD offices. A similar situation could develop at MFA. However, since these are non-recurring funds, this burden should only happen one time.

OTHER SUBSTANTIVE ISSUES

Since this is not an entitlement program it is unclear what might happen if LIHEAP funds are depleted with unserved persons creating a waiting list. Also, regarding Section 1, it must be asked if it is good public policy to solicit donations for what may be described as essential government functions.

If income levels for eligibility are increased, so are the numbers of eligible households. At 150% of the FPG there are 184,000 eligible households. At the 200% of the FPG there are 266,000 households with an approximate net increase of eligible households of 82,000. Interest in raising the income eligibility level will expand potential applicants thereby diluting the potential per household award. In addition, the likelihood of depleting the fund leaving persons unserved increases.

ALTERNATIVES

See attachment regarding the existing Low Income Utility Assistance Act. Using this existing fund may negate the need for Section 1 of SB 2 and activate an unused prior legislative initiative.

POSSIBLE QUESTIONS

Should the existing Low Income Utility Assistance Act be utilized rather than creating new funds?

MW/yr

Attachment