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FISCAL IMPACT REPORT

ORIGINAL DATE 2-21-2007

SPONSOR Carraro LAST UPDATED _____ HB _____

SHORT TITLE Low Interest Loans for Military Personnel SB 833

ANALYST Dearing

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Non-Rec | Fund Affected |
|---------------|------|-------------------------|------------------|
| FY07 | FY08 | | |
| \$5,000.0 | | Recurring | General Fund |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Veterans' Services Department (VSD)

SUMMARY

Synopsis of Bill

Senate Bill 833 appropriates \$5 million from the general fund to the Veterans' Services department. Senate Bill 833 creates a temporary suspense fund to issue low-interest loans to active-duty U.S. service members and their families.

FISCAL IMPLICATIONS

The appropriation of \$5 million contained in Senate Bill 833 is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of FY07 shall revert to the General Fund.

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.

SIGNIFICANT ISSUES

Senate Bill 833 does not specify the rate or range of rates to be applied to disbursements from the fund within the bill. Although the term “low-interest loans” is used in Senate Bill 833, there is no base reference to what class of lending this would be referenced or “pegged” to. As written, these loans would seem to be unsecured personal loans, which have above average rates in the open market. It is unknown whether rates would be lower than market rates on average, as related to the type of loan these substitute, or low in relation to the prime rate.

According to the Attorney General’s office:

Senate Bill 833 does not restrict the use of the money loaned. The repayment terms of such loans, or the amount of collateral required, if any. The bill does not establish any eligibility criteria for obtaining those “low-interest loans” other than the person requesting a loan be a member of the armed forces on active duty and a resident of New Mexico, or their “spouse”. Given the broad provisions of the bill, the spouse of a member of the armed forces on active duty may request a loan regardless of participation in that request by the armed services member, even if they are separated, estranged, or undergoing a divorce. Spouses do not have to be residents of New Mexico in order to obtain loans under the provisions of this bill. Furthermore, it is unclear whether loans to individuals would be considered community or separate debt.

The bill does not restrict loan eligibility to members of the New Mexico National Guard. It is therefore distinguishable from NMSA Section 20-4-7.3 providing state funding for life insurance premiums for members of the New Mexico National Guard. Because that section is restricted to funding premiums for members of the New Mexico National Guard, it may be construed as additional compensation provided those persons, in exchange for serving the New Mexico military organization. Members of the New Mexico National Guard are also considered “state employees” for the purpose of eligibility to purchase and participate in group insurance coverage. See NMSA Section 20-4-10.

If the loans are written at less than market interest rate, regardless of need or indigency status of the borrower, the loans could violate the provisions of Article IX Section 14 of the New Mexico Constitution, commonly referred to as the anti-donation clause.

TECHNICAL ISSUES/ AMENDMENTS

The recipients of the benefit these loans will provide are intended to be *active duty* U.S. service members. The funding would be more effective if placed with the department of Military Affairs, as opposed to the *Veterans’* department. Placement of this fund under this department’s administration could have a significant workload implication due to responsibilities of disbursing funds and collecting loan information and payments as the department would be working with an entirely new client base.

The legislation does not extend the right to sue or be sued to the Veterans’ Services department. It is thought the department shall need this power to collect on delinquent accounts.

PD/mt