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FISCAL IMPACT REPORT

ORIGINAL DATE 01/24/08
 LAST UPDATED 01/31/08 **HB** 180/aHAFC/aSFL#1

SPONSOR Moore

SHORT TITLE Manny Herrera Access to Health Foods Act **SB** _____

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$.01 see narrative		Healthy Foods Initiative Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	\$.01 see narrative			Healthy Foods Initiative Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico State Investment Council (NMSIC)
 New Mexico Department of Agriculture (NMDA)
 Economic Development Department (NMEDD)
 Human Services Department (HSD)
 Department of Health (DOH)

SUMMARY

Synopsis of SFL#1 Amendment

This Amendment contemplates that the Director of NMDA, or his designee, also be the Chairman of this Committee, not the Secretary of Economic Development. As well, three voting members shall be appointed by the Governor, 'with the advice and consent of the Senate.'(added).

This Amendment leaves the intent of the Bill the same, but staffs the Chairmanship with a different person, as above.

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee Amendment removes the appropriation from the bill.

Significant Issues

There is no longer an appropriation to support the healthy foods initiative board in its efforts.

Synopsis of Original Bill

House Bill 180 enacts the Manny Herrera access to healthy foods act, creates a healthy foods initiative board and appropriates \$10 million from the General Fund for a healthy foods initiative fund to be managed by the NMSIC, and administered by DFA, at the direction of the Board. The SIC's sole role would be to manage the fund and optimize returns to help protect and grow the fund.

FISCAL IMPLICATIONS

House Bill 180 appropriates \$10 million from the General Fund for a “healthy foods initiative fund” in FY09 and subsequent fiscal years to improve New Mexican’s access to healthier foods by providing financial assistance through approved grants or loans to applicants proposing projects.

The appropriation of \$10 million contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not 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.

The State Investment Council reports that the fiscal implications for the Council will not be substantial. Currently the SIC manages 4 permanent funds as well as 18 in-state clients, which own 35 separate investment accounts. The Healthy Foods Initiative Fund would be another fund under management by the SIC.

SIGNIFICANT ISSUES

The State Investment Council reports that Section 5 paragraph A, states that “...Money in the healthy food initiatives fund shall be invested by the state investment officer in a manner that the land grant permanent funds are invested pursuant to Chapter 6, article 8 NMSA 1978.”

Currently the Land Grant Fund is a widely diverse fund, invested in many different asset allocations with varying levels of risk, commitment and liquidity issues. For example, the LGPF is invested in private equity funds, which require significant amounts of time commitment prior

to return of capital. In the case of Venture Funds, partnerships can last for the period of up to 15 years until full exit and complete return of capital. Hedge Funds, Real Estate and Structured Debt vehicles – all investments in the Land Grant Fund - also have similar “lock up” terms which limit potential liquidity should capital need to be extracted from an investment in an expedited manner. For this reason, the legislation might do better to grant the State Investment Officer some flexibility in how the assets are managed, possibly by stating the investments should be managed “in a manner similar to the LGPF”.

Currently the SIC is awaiting an Attorney General’s ruling on this very issue regarding language in statute passed in 2007 stipulating SIC management of the Department of Labor’s Unemployment Trust Fund in a manner identical to the LGPF.

PERFORMANCE IMPLICATIONS

The board will adopt governing rules surrounding financial assistance to applicants proposing projects to improve the access of New Mexicans to healthy foods. The board will consist of nine voting members including the following six ex-officio members to serve a term of two years to include the Secretary or their designee from New Mexico Department of Agriculture, Economic Development Department, Department of Finance and Administration, Department of Health Department of Human Services and the Department of Indian Affairs.

The board will also include three additional members to be appointed by the Governor that will serve a term of two years to include representatives from the New Mexico Food and Agriculture Policy Council, and representatives from both the transportation and grocery industry.

The board will be expected to report to the appropriate Legislative interim committee no later than October 1 of each year regarding the total nature of expenditures from the fund for the previous fiscal year.

ADMINISTRATIVE IMPLICATIONS

The SIC further notes managing any additional fund would increase work load for SIC management and administration, but it could be accomplished with existing SIC staff.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 180 relates to:

HB 83, Market NM-Grown Fruit & Vegetables

HB 86, Study Increased Access to Fresh Foods

HB 164 Local Fruits & Vegetables in School Lunches

HB 156 and SB 49, Farmers Market Nutrition Enhancement Program

TECHNICAL ISSUES

HB180 does not explain the coordinative relationship among the State of New Mexico Departments and other entities that would comprise the healthy food initiatives board nor does it specify the types of healthy food initiatives that would be supported by the funding appropriated in this bill.

The only representation on the new board from private business are in the transportation and grocery industry. The NMDA notes the bill does not include representation on the board for fruit and vegetable growers, food processors, and food and livestock producers.

OTHER SUBSTANTIVE ISSUES

DOH reports that New Mexico has 12 non-metro counties with low-food access (50% of residents must go more than 10 miles to a food store) and 6 counties that are considered “food deserts” (100% of the residents more than 10 miles). Also, a New Mexico 2006 market basket comparison found that food in smaller rural stores is as much as 70% more expensive than the same food purchased in large, metro-area supermarkets, and that the availability of fresh produce is considerably less than those larger markets.

DOH further reports that individuals in New Mexico with lower incomes and educational attainment have higher rates of food insecurity, poorer eating habits and nutrition, and inferior health status when compared to people earning more money and with higher education. About 13% of both Native American and Hispanic high school students in NM indicated that sometimes there is not enough food available for their families, indicating food insecurity, compared to 7% for non-Hispanic white students. NM high school students who said they didn't have enough to eat were less likely than other students to get good grades (49% vs. 72%).

ALTERNATIVES

During the 48th New Mexico Legislative Session, legislation in the form of HJM 10 created a Food Gap Task Force to research ways to improve access to sources of healthy and affordable foods by rural and underserved New Mexicans. There may be some overlap between the responsibilities of the healthy foods initiatives board and the New Mexico Food Gap Task Force. The task force will be assessing needs and making recommendations to the Legislature in FY09.

AHO/bb:nt