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FISCAL IMPACT REPORT

ORIGINAL DATE 02/26/09

SPONSOR McSorley LAST UPDATED _____ HB _____

SHORT TITLE No Utility Disconnection During Winter Months SB 561

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicate SB 581
Relates to HB 260, HB 724, HB 732, to SB 71& SB 468

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance & Administration (DFA)
Health Policy Commission (HPC)
Human Services Department (HSD)
Indian Affairs Department (IAD)
Public Regulation Commission (PRC)

SUMMARY

Synopsis of Original Bill

Senate Bill 561 prohibits a gas or electric utility company whether owned or operated publicly, privately, municipally, or cooperatively to discontinue service for any customer for nonpayment during the period from November 15 through March 15 unless certain specifically defined procedures are followed.

FISCAL IMPLICATIONS

There are no fiscal implications.

SIGNIFICANT ISSUES

The bill requires municipal and cooperatively owned gas or electric utilities to adhere to service disconnection procedures to any residential customer during the heating season. These requirements currently apply only to non-municipal utility companies.

This bill will prohibit any gas or electric utility including municipal and cooperatively owned utilities from discontinuing service to any residential customer for nonpayment during the period from November 15 through March 15 unless certain notification procedures are followed.

The PRC's rule 17.5.410 NMAC, are the uniform standards to be followed by electric, gas, and rural electric cooperative utilities in dealing with residential customers. The PRC rule is to aid residential customers in obtaining and maintaining essential utility services, to promote safe and adequate service to residential customers, and to establish a basis for determining the reasonableness of such demands as may be made upon utilities by residential customers.

The procedures outlined in 27-6-17 NMSA for discontinuance of service during the heating season, November 15 through March 15, are similar to the PRC's discontinuance of service procedures except that the PRC's rules are not limited to the heating season.

Municipalities may need to establish utility operating standards and procedures, or amend existing disconnection rules to assure compliance with the requirements of this bill

The Low Income Utility Assistance Act (Act) is currently silent on the definition of utility. During the first year of implementation of the moratorium against disconnection, there was confusion about which entities were utilities subject to the Act and the related moratorium disconnection period. However, the HSD adopted the PRC definition of utility, which does not include municipally owned utilities. The PRC regulates cooperatives to a certain extent, as well. Redefining utility in the Act creates a different definition of utility than is used by the PRC.

HSD states that this bill is unclear as to the PRC's responsibilities for enforcement or regulation under the Act, specifically the disconnection moratorium. Further, other fuel providers, such as propane, wood, coal, and pellet providers, continue to be exempt from the disconnection moratorium, unless other bills currently under consideration by the state legislature were to pass.

HSD determines who may be qualified for protection against disconnection during the moratorium period. HSD currently qualifies all households receiving an HSD program at or below the Low Income Home Energy Assistance Program (LIHEAP) federal poverty guidelines of 150 percent, regardless of their heating source. HSD customers receive a protection notice from HSD each month during the moratorium period. No change in the client notification process will result from this bill.

The former State Corporation Commission and the former Public Utility Commission were joined together to form the Public Regulation Commission.

ADMINISTRATIVE IMPLICATIONS

The affected agencies should be able to handle the enforcement of the provisions in this bill as part of ongoing responsibilities.

DUPLICATION

SB 630 duplicates SB 561.

SB 71	SB 561 & SB 630	SB 468
Title: An Act relating to Public Assistance; Clarifying that Municipalities are subject to the provisions of the Low Income Utility Assistance Act.	Title: An Act relating to Utilities; prohibiting a municipally owned or Operated Utility and a Rural Electric Cooperative from Disconnecting Utilities During the Winter months for a Low Income Customer.	Title: An Act relating to business enacting a new section of the construction industries licensing act; providing for the regulation of propane dealers; providing penalties.

SB 630 also relates to HB 260 Low Income Energy Assistance Programs, HB 724, Utility Disconnection Requirements, HB 732, Low-Income Energy Utility Fund Distributions.

TECHNICAL ISSUES

HSD notes that this bill includes the word utility in various places but this bill only changes the definition of utility for the purposes of Sections 27-6-17 and 27-6-18.1 NMSA 1978.

DW/svb:mc