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FISCAL IMPACT REPORT

ORIGINAL DATE 01/23/13
 SPONSOR HJC LAST UPDATED 02/05/13 HB 12/HJCS
 SHORT TITLE NM Works Assistance Spending Restrictions SB _____
 ANALYST Trowbridge

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	*See Fiscal Implications	*See Fiscal Implications	Recurring	

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Human Services Department (HSD)

SUMMARY

Synopsis of Bill

House Judiciary Committee Substitute for House Bill 12 (HB12) enacts a new section of the New Mexico Works Act authorizing the Human Services Department (HSD) to (a) issue cash assistance through Electronic Benefits Transfer; (b) charge fees to replace the EBT cards; (c) restrict the use of cash assistance on the EBT cards at automated teller machines (ATM) and point-of-sale terminals located at retailers whose participation in the EBT program has been denied; and (d) prohibit participants from using cash assistance benefits in, and retailers and financial institutions from participating in, EBT transactions at:

- 1) the licensed premises of a pari-mutuel horse racing establishment where simulcast wagering is conducted;
- 2) a gaming establishment
- 3) a liquor store; or
- 4) an adult entertainment establishment.

FISCAL IMPLICATIONS

HSD indicates that the Federal Act requires states “to maintain policies and practices as necessary to prevent assistance provided under the State program funded under this part from being used in any electronic benefit transfer transaction in any liquor store; any casino, gambling casino, or gaming establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.”

New Mexico is required to report to the Administration for Children and Families (ACF) by February 22, 2014 its implementation of policies and practices required by the Federal Act. ACF is required to reduce a State’s block grant if the State fails to comply with this reporting requirement or if, based on the information that the State reports, ACF finds that the State has not implemented and maintained the required policies and practices.

Failure to meet the reporting required by P.L. 112-96 Section 408(a)(12), or the Health and Human Services Cabinet Secretary determines that any state has not implemented and maintained such policy and practices, ACF will reduce New Mexico’s TANF Block Grant by five percent. New Mexico will then be required to supplement the reduction in the TANF Block Grant with State General Fund. New Mexico’s TANF Block Grant is \$110,000 million. Five percent of the block grant is \$5.5 million that must be supplemented with State General Fund if lost.

HSD adds that there is no Information Technology Division (ITD) impact to ISD2 or ASPEN related to this bill.

SIGNIFICANT ISSUES

HSD notes that in April 2012, Congress passed the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) (herein “Federal Act”). Section 4004 of the Federal Act requires states to implement rules to prohibit the use of EBT cards in liquor stores, casinos and adult entertainment venues or risk a penalty of five percent of the Temporary Assistance for Needy Families (TANF) block grant.

In June 2012, the average number of participants in New Mexico who received cash assistance was 45,568; totaling \$5,858,564 in benefits with an average cash benefit amount of \$290.37 (Human Services Department’s Monthly Statistical Report and JPMorgan Business Object Data Warehouse). Currently, New Mexico has language in the Tribal Gaming Compacts that prohibit the use of the EBT cards at tribal casinos. The New Mexico Gaming Commission is responsible for the enforcement of compacts ensuring the EBT restriction on ATMs within the casino floor. HB12s would strengthen New Mexico’s ability to limit EBT use at the other establishments identified in the bill.

PERFORMANCE IMPLICATIONS

HB 12 relates to HSD’s FY14 strategic plan, Goal 2, Task 2.3: Implement Cost Avoidance Measures and Improve Program Integrity.

ADMINISTRATIVE IMPLICATIONS

HSD states that currently, New Mexico has language in the Tribal Gaming Compacts that prohibit the use of the EBT cards at tribal casinos by locking-out the state's EBT Bank Identification Number (BIN).

Paragraph C of Section 1 of HB12s proposes that the Gaming Control Board, the Alcohol and Gaming Division of the Regulation and Licensing Division and the State Racing Commission work cooperatively with the HSD to share information and methods to prohibit access and use of EBT transactions at ATMs and point-of-sale terminals at establishments under their jurisdiction.

HSD is developing a Request for Proposals for an EBT vendor, with an expected release later this year. The proposal requires that the EBT system shall have the capability to prohibit EBT transactions in certain merchant locations that may include, but are not limited to, casinos, liquor stores, and live adult entertainment establishments, as defined by the Procuring Agency and State and Federal rules, regulations, laws, and any agreements or contracts that the Procuring Agency has entered into with other entities that would prohibit the transactions in said establishments mentioned above.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HSD states that New Mexico will be required to supplement five percent of its TANF Block Grant Budget using the state's general funds.

TT/svb:bm