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

ORIGINAL DATE 01/28/13
SPONSOR Egolf **LAST UPDATED** ______ **HB** 135

SHORT TITLE Energy Efficient Home Purchase Tax Credit **SB** ______

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
	($3,608.0)	($3,853.0)	($4,114.0)	($2,125.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

House Bill 135 adds a section to the Income Tax Act to create the energy efficient home tax credit, a tax credit for the purchaser of an eligible energy efficient home to apply to the taxable year in which the home is purchased. The amount of the credit is $4,000, $6,000 or $8,000, based upon the home energy rating system (HERS) certification level achieved by the home.

HB135 requires the Energy, Minerals and Natural Resources Department (EMNRD) to establish a program and certify applicants, as it already does for the sustainable building tax credit program. The tax credit is available for the taxable years of 2013-2016, and home construction must begin between July 1, 2013 and June 30, 2016.

The tax credit is based on the home energy rating system (HERS) certification levels as follows:
- HERS index of 60 or less, but more than 30: $4,000
- HERS index of 30 or less, but more than 0: $6,000
- HERS index of 0 or less: $8,000

The Rating System Certification Level and its corresponding tax credit for renovated foreclosures:

- 40% or more energy reduction, but less than 70% energy reduction: $4,000
- 70% or more energy reduction, but less than 100% energy reduction: $6,000
- 100% energy reduction: $8,000

Credits in excess of tax liability will be refunded to the taxpayer but the credit is not transferrable.

The effective date of this bill is July 1, 2013. The provisions of the bill are applicable to taxable years 2013 through 2016.

FISCAL IMPLICATIONS

According to the data from the Energy, Minerals and Natural Resources (EMNRD), there were approximately 686 sustainable building credit claims for single family residential homes in 2012. These homes would also qualify for the energy efficient home purchase tax credit. Of the claims, it is assumed that 65 percent of these qualify as at most HERS 60, 25 percent of these qualify as at most HERS 30, and 10 percent of these qualify as at most HERS 0.

The bill requires construction of the home to begin on or after July 1, 2013, but not after June 30, 2016. The TRD reports that, assuming an increasing in single housing construction grows at a rate of 6.7 percent per year in New Mexico (based on UNM BBER, *FOR-UNM* economic forecast, December 2012), eligible homes in 2013 would be 713, in 2014 there would be 761, in 2015 there would be 812 homes eligible, in 2016 there would be 433 homes eligible (through the first half of FY17). The fiscal impact is estimated assuming 50 percent of home in each calendar year are distributed to the fiscal year, and the proportion of HERS 60, 30 and 0 homes remain as found in 2012.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

PERFORMANCE IMPLICATIONS

HB 135 requires taxpayers to apply to EMNRD for a certificate of eligibility for the energy efficient home income tax credit. The bill requires that EMNRD keep records of these certificates, and requires that TRD audit EMNRD's records of the tax credit. The LFC tax policy of accountability is met with the bill's requirement to report annually to the interim Revenue Stabilization and Tax Policy committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

TECHNICAL ISSUES

TRD notes the following:

- Page 3, Subsection E, lines 1-5, state that the taxpayer may apply for a certificate of eligibility after the construction or renovation of the eligible home is completed.

However, Page 4, Subsection G, requires that the income tax credit is available for the tax year the home is purchased. The issue arises when a taxpayer purchases a foreclosed home late in one taxable year; if renovations are not completed until the next taxable year, the taxpayer would miss out on the credit. TRD suggests adding language such as "for the taxable year in which the eligible energy efficient home is purchased or the taxable year the renovations are completed on a home purchased in the previous year."

- On page 4, lines 3-4, "periodic basis" should be defined.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

PvM/bm