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FISCAL IMPACT REPORT

SPONSOR Cote **ORIGINAL DATE** 01/06/14
LAST UPDATED 01/27/14 **HB** 40

SHORT TITLE Affordable Housing Tax Credit Act Definitions **SB** _____

ANALYST Dorbecker

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16	FY17	FY18		
	NFI				Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

NM Mortgage Finance Authority (MFA)
 Taxation and Revenue Department (TRD)

SUMMARY

House Bill 40 amends the Affordable Housing Tax Credit Act (Section 7-9I-2 NMSA 1978) by changing the definition of “person” to remove counties and municipalities, hence excluding them from eligibility for state tax credits under the act.

FISCAL IMPLICATIONS

This bill resolves an existing contradiction between the Affordable Housing Tax Credit Act (AHTCA) and the Affordable Housing Act (Section 6-27-1 NMSA 1978) (AHA). According to the Taxation and Revenue Department (TRD), the current wording of the AHTCA creates the appearance that local governments can receive a tax credit for contributions made under the AHA.

The New Mexico Mortgage Finance Authority (MFA) has received applications from local governments for the AHTCA, but it has not accepted them based on legal advice. TRD asserts that if the applications were to be accepted, they would represent a significant negative revenue impact to the general fund.

PERFORMANCE IMPLICATIONS

Under current law, the Affordable Housing Tax Credit Act provides local governments with a basis for claiming state tax credits. According to MFA, they cannot issue investment vouchers for these tax credit applications because donations made by local governments for affordable housing are inherently revocable and therefore would not be considered “donations” for the purposes of the AHTCA. MFA’s performance of its administrative responsibilities under AHTCA is hampered by these conflicting issues.

ALTERNATIVES

MFA reports it will continue to reject local government affordable housing state tax credit applications on the basis of legal advice. MFA could also control for the contradiction between the two acts through MFA’s affordable housing tax credit administrative rules.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There will continue to be a conflict between AHTCA and AHA.

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

HD/ds