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FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/17

SPONSOR Trujillo, L/Ferrary **LAST UPDATED** _____ **HM** 7

SHORT TITLE Study NMFA Accessibility **SB** _____

ANALYST Amacher

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY17 | FY18 | FY19 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|--------|------|----------------------|------------------------------|------------------|
| Total | | \$50.0 | | | Nonrecurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (AGO)
 New Mexico Finance Authority (NMFA)
 Regulation & Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Memorial 7 requests the Legislative Finance Committee (LFC) to undertake a study of ways in which the resources of the New Mexico Finance Authority (NMFA) might be made more accessible to persons and business in the state, including the option of forming a state-owned bank.

FISCAL IMPLICATIONS

House Memorial 7 requests the LFC to undertake a study during the 2017 interim of accessibility of resources from NMFA and the feasibility of establishing a state-owned bank. The mission of the LFC is to provide the Legislature with objective fiscal and public policy analyses, recommendations, and oversight of state agencies to improve performance and to ensure accountability through the effective allocation of resources for the benefit of all New Mexicans. The LFC consistently produces reports, evaluations, and other work products on a number of policy issues. The LFC staff maintains an interim work plan approved by the LFC. This study is not currently on the work plan and would require a reprioritization of resources and approval by the LFC.

SIGNIFICANT ISSUES

House Memorial 7 acknowledges challenges exist for small businesses in New Mexico in obtaining start-up financing. With two national laboratories and three research universities, there is a potential for new businesses in the technology transfer sector; however, efforts are hampered by a lack of venture capital in the state. Even younger individuals and families interested in agriculture have not had much success in obtaining the necessary financing to purchase farming operations.

HM 7 recognizes the establishment of the state-owned bank in North Dakota that provides lending programs to promote agriculture, commerce and industry and stimulate economic development. Massachusetts created the Massachusetts Growth Capital Corporation which provides capital and advice to small businesses. Furthermore, HM 7 highlights that at least 22 states have undertaken studies to determine the feasibility of state-owned banks as a way to stabilize state economies.

HM 7 seeks to further utilize the substantial financial resources of the NMFA in an effort to help stabilize the state economy, provide local existing and start-up business with greater access to credit, support local economic development, augment the lending capacity of private banks in New Mexico and contribute revenue to help fund state government.

HM 7 requests a report by October 1, 2017 to the appropriate interim legislative committees by the LFC.

OTHER SUBSTANTIVE ISSUES

The New Mexico Finance Authority Oversight committee work plan in 2010 included the review of possible roles for the NFMA and the public project revolving fund in creating a state bank. The work plan also included a review of options for expanding the NMFA's ability to generate increased economic development through the creation of a state bank. The committee's discussions resulted in proposed legislation in 2011 in an effort to expand the Statewide Economic Development Finance Act (SWEDFA) to better serve and benefit rural communities.

As proposed in the 2011 Session but not enacted, in Senate Bill 26, NMFA would have been permitted to establish one or more for-profit or non-profit entities, not controlled by a government entity, to participate in the federal Community Development Financial Institution Program (CDFI).

Creating a CDFI would have allowed access to private funding for use towards the state's goals to increase economic development in addition to being an alternative source of capital for funding to businesses in rural and under-served parts of the state. Similar to the New Market Tax Credit (NMTC) program authorized by the Legislature in 2006, a subsidiary limited liability company would need to be created, for the purpose of receiving and distributing NMTC funds. The program is an economic development tax incentive administered by the United States Department of the Treasury's CDFI fund. The purchase of NMTC by investors provides private businesses equity capital to further commercial economic development activities in rural and under-served parts of the state. In 2006, it was reported there were 11 CDFI entities and the bill may have duplicated existing efforts in the state, as well as, increase the competition for federal and state funds. Through the subsidiaries of Finance New Mexico, LLC, NMFA's NMTC

program, the U.S. Department of Treasury has awarded a total of \$256 million in NMTC allocations, as reported in NMFA's 2016 annual report. Through this program funds are available to private for-profit and not-for-profit organizations to spur job creations and development activities in the state.

The Financial Institutions Divisions (FID) of the Regulation and Licensing Department anticipates that the director and staff of the FID would be consulted during the course of any study or examination of the development of a New Mexico state-owned bank. FID expressed concerns that when the structure and process of the possibility of a state-owned bank it be done alongside current New Mexico Law and sound banking practices. FID suggests the following areas be included with the study:

- the anti-donation clause of the New Mexico Constitution may be in conflict when discussing the use of public funds for financing by a bank as currently established/chartered in the state and thus a constitutional amendment would be required prior to the creation of one in New Mexico;
- deposit insurance consistent with the Federal Deposit Insurance Corporation (FDIC) or other appropriate instrumentality of the United States Government; the deposits for the Bank of North Dakota are not FDIC insured, but are guaranteed by the full faith and credit of the State of North Dakota;
- addressing FDIC's Statement of Policy for Applications for Deposit Insurance wherein concerns about institutions owned by domestic governmental units are being controlled by the political process; additionally, the FDIC notes the institutions could raise special concerns relating to management stability, and the ability and willingness to raise capital;
- oversight of a state-owned bank would need to be determined, and in order to be effective, an independent regulator should be able to exercise its supervisory authority independently and must have the authority to review all books and records with corrective measures through formal enforcement actions, civil money penalties, and removal of bank officers and directors;
- safety and soundness of a state-owned bank must include careful consideration to the investment and lending authority to avoid risks to the solvency of the institutions and prevent undue competition with privately owned banks;
- governance and managerial factors of the fiduciary duties of the board and management of the institution, as well as the competence, experience, integrity, and financial ability of the institution's organizers; and
- capital adequacy ensuring monetary capital is available for operations through the economic cycle; "well capitalized" by federal regulations require leverage capital to be greater than 5% and often banks find it necessary to hold significantly higher levels (11%) to ensure capital is not completely exhausted in times of economic stress; FID notes the current standard of 11% means a bank project to be \$1 billion in assets would need \$110 million in capital just to open its doors.

ALTERNATIVES

As suggested by FID, there are other existing avenues competing for much of the business proposed in HM 7. The following non-exclusive list is provided for consideration in the development of the report:

- United States Department of Agriculture, Farm Service Agency has provided aggressive competition with over eight farm loan programs. These programs are all-encompassing of the areas of concern expressed in HM 7; for example: Native American Tribal loans, farm maintenance loans, farm operation loans, and beginning farmer and rancher loans to name a few.
- Accion, a nonprofit dedicated to a financial inclusive world, provides small business loans in amounts from \$1 thousand to \$1 million, typically to higher risk loans which traditional banks may not want to finance without additional collateral.
- Many state-chartered banks are actually more liquid and have lower loan volume than is considered preferable. The market for quality loans to worthy borrowers is quite competitive. FID comments that only quality loans should be made for sustainability and public confidence, with or without public funds being involved.

JMA/jle