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FISCAL IMPACT REPORT

SPONSOR Ingle **ORIGINAL DATE** _____
LAST UPDATED 01/19/18 **HB** _____

SHORT TITLE Affordable Housing Act Oversight Duties **SB** 70

ANALYST Amacher

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
	\$250.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Mortgage Finance Authority (MFA)

SUMMARY

Synopsis of Bill

Senate Bill 70, endorsed by the Mortgage Finance Authority Act Oversight Committee, appropriates \$250 thousand from the general fund to the Department of Finance and Administration (DFA) for expenditure in FY19 and subsequent fiscal years to fund the oversight of the Affordable Housing Act (Chapter 6-27-1 NMSA 1978). Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

FISCAL IMPLICATIONS

The appropriation of \$250 thousand contained in this bill is a recurring expense to the general fund. As drafted, any unexpected or unencumbered balance remaining at the end of a fiscal year does not revert to the general fund.

LFC staff deems this appropriation to be recurring as the oversight function being funded is a continuing year-over-year expense.

SIGNIFICANT ISSUES

SB 70, endorsed by the Mortgage Finance Authority Act Oversight Committee, appropriates \$250 thousand from the general fund to the DFA for expenditure in FY19 and subsequent fiscal years to fund the oversight of the Affordable Housing Act (Chapter 6-27-1 NMSA 1978).

The Affordable Housing Act assigns MFA rulemaking and oversight authority for the Act. The MFA is an instrumentality of the state of New Mexico and receives no operating funds from the state, it relies on annual appropriations to fund its oversight responsibilities under the Act.

The Act is enabling legislation for an affordable housing exception to the anti-donation clause of the New Mexico Constitution. The Act is an important tool for the state and local governments to create and preserve affordable housing through the contribution of public funds, buildings or other resources. To date, local governments contributed nearly \$50 million in land and funding for affordable housing using the Affordable Housing Act.

PERFORMANCE IMPLICATIONS

Pursuant to the Act, the MFA has adopted and overseen rules for the Affordable Housing Act since the Act's inception in 2005. In addition to oversight, the MFA provides technical assistance to local governments in creating and implementing affordable housing plans and ordinances required by the Act. To date, the MFA has assisted 42 local governments with affordable housing plans and ordinances. Support includes review and approval of plans, provision of affordable housing data, legal review of ordinances, and presentation to local government bodies. Furthermore, the MFA also provides grant funding to assist local governments with the costs of plan development and implementation.

OTHER SUBSTANTIVE ISSUES

The MFA highlights the significance of the Affordable Housing Act as an important tool for the state and local governments to create and preserve affordable housing. The Act allows for an affordable housing exception to the anti-donation clause of the New Mexico constitution. The Act permits state and local governments to contribute public funds, building or other resources to create or preserve affordable housing. In exchange for these contributions, the Act imposes a long-term affordability requirement on publicly-subsidized properties.

As previously reported, the MFA has explained the continuing need for this appropriation:

As part of the regional housing authority reform process in 2007-2009, the state legislature designated the MFA as the oversight agency for New Mexico's three regional housing authorities. Because the MFA is an instrumentality of the state of New Mexico and receives no operating funds from the state, it has relied on annual appropriation requests to fund its oversight responsibilities under the Regional Housing Law. In some years, the MFA has received no funding for the regional housing authorities, forcing it to support an unfunded mandate with its technical assistance. This appropriation will cover the MFA's annual costs for oversight of the regional housing authorities, including provision of training and technical assistance.

The DFA has recommended in the past that both financial and compliance audits be done on the regional housing authorities, conducted in line with the New Mexico Audit Act. The DFA noted that with this level of review and analysis, the MFA oversight could prove meaningful in curtailing or eliminating past misuse of taxpayer funds. The MFA advised that it conducts annual on-site audits of each authority. The MFA also noted that it has no direct enforcement authority when funding sources are federal dollars, but it does review Section 8 and other programs while on-site.

ALTERNATIVES

MFA suggests two alternatives:

- A preferred alternative to this bill is a permanent line item of \$250 thousand in the state budget to support Affordable Housing Act oversight; or,
- Oversight could be transferred to the DFA, a state agency which receives annual operating funds from the state. This alternative is not preferred because the DFA does not have experience with oversight of the Affordable Housing Act.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

MFA believes that lack of oversight, which protects against fraud and mismanagement, will place the regional housing authorities at risk and could lead to potential abuse of the Affordable Housing Act. Lack of technical assistance to local governments would reduce contributions for affordable housing and could result in less affordable housing development overall.

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