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FISCAL IMPACT REPORT

ORIGINAL DATE 3/4/09

SPONSOR Lujan, B LAST UPDATED _____ HM 45

SHORT TITLE Ensure Cleanup Of Lanl Waste SB _____

ANALYST Haug

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB106

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

House Memorial 45 urges the New Mexico congressional delegation to exert pressure on the United States department of energy to ensure the cleanup of radioactive, hazardous and toxic waste at the Los Alamos national laboratory and surrounding areas and use their influence to ensure that funding provided in the Federal American Recovery and Reinvestment Act of 2009 be utilized for the cleanup of toxic waste at Los Alamos national laboratory.

The memorial further request that the congressional delegation:

- urge the United States environmental protection agency and New Mexico's department of environment to enforce regulations and compliance orders for the cleanup of contaminated sites;
- work to fully fund efforts to enhance and develop clean, innovative and life-affirming science and technology in order to clean up radioactive, toxic and hazardous materials at Los Alamos national laboratory;

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- work to ensure that funding is available to establish state-of-the-art training programs in radioactive, toxic and hazardous waste cleanup to prepare local workers for cleanup efforts at Los Alamos national laboratory;
- work to provide adequate federal funds to ensure compliance with the legally enforceable agreements and federal and state permits that oversee the cleanup.

Copies of this memorial would be transmitted to the New Mexico congressional delegation, the United States Department of Energy, Los Alamos National Laboratory, the United States Environmental Protection Agency, the regional office of the United States Environmental Protection Agency in Dallas, Texas, and New Mexico's Department of Environment.

FISCAL IMPLICATIONS

There is no fiscal impact.

SIGNIFICANT ISSUES

Sixty-five years of operations in plutonium processing, plutonium pit manufacturing, explosives testing and chemical and materials science research have generated more than eighteen million cubic feet of hazardous, toxic and radioactive waste that is buried in unlined pits, trenches and shafts at Los Alamos National Laboratory.

Senators Bingaman and Udall were members of a bipartisan group of eight United States senators who called for six billion dollars (\$6,000,000,000) in economic recovery package funds to be dedicated to "shovel-ready" cleanup projects at existing United States Department Of Energy sites, including Los Alamos National Laboratory.

The federal American Recovery and Reinvestment Act of 2009 contain funding for the cleanup of toxic waste at facilities such as Los Alamos National Laboratory, including funding for the creation of new jobs to accomplish the cleanup.

The United States Department Of Energy will have discretion to determine funding allocations for its cleanup sites.

Article 20, Section 21 of the Constitution of New Mexico states that "the protection of the state's beautiful and healthful environment is hereby declared to be of fundamental importance to the public interest, health, safety and the general welfare" and calls for the establishment and implementation of environmental laws and regulations to protect the state's citizens.

Local, state and federal government agencies have a responsibility to protect the public health and welfare by setting regulations and enforcing laws that protect water resources.

As of 2002, it is estimated that more than seven hundred million dollars (\$700,000,000) has been spent by the United States Department Of Energy on cleanup efforts at Los Alamos National Laboratory.

Much of the funding was spent on investigations and preliminary studies and not on actual contamination removal.

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The United States Department Of Energy estimates that more than two billion dollars (\$2,000,000,000) in additional funding is necessary for the cleanup at Los Alamos National Laboratory.

The Cerro Grande fire, which occurred in May 2000, burned over seven thousand acres of Los Alamos National Laboratory property, resulting in the migration of plutonium and other contaminants, at levels not seen since the 1960s, through the watersheds to the Rio Grande.

On March 1, 2005, New Mexico's Department Of Environment and the United States Department Of Energy signed an administrative "Order on Consent" to address legacy waste at Los Alamos National Laboratory, setting a timetable for cleanup.

The New Mexico Department Of Environment, the United States Department Of Energy, Los Alamos National Laboratory, nongovernmental organizations and individuals are negotiating the renewal of a ten-year permit for ongoing hazardous waste operations at Los Alamos National Laboratory that is intended to demonstrate compliance with the federal Resource Conservation and Recovery Act permit of 1976.

Workers that are thoroughly and properly trained will sustain fewer injuries and be involved in fewer accidents.

Well-trained workers will be a valuable asset and create a local work force able to provide expertise at other cleanup sites.

Healthy communities and ecosystems require clean, innovative and life-affirming science and technology that will benefit the economy, the future and the health of all.

The NMED states:

While recognizing the importance of LANL to our national security and the fabric of northern New Mexico, HM 45 underscores the over 60-year legacy of contamination and harm posed to workers and the public by LANL's operations. The American Recovery and Reinvestment Act of 2009 (a.k.a. the "Stimulus Package"), recently signed into law by President Obama, provides \$6 billion in funding for U.S. Department of Energy (DOE) cleanup projects. While approximately \$220 million of that is earmarked for LANL cleanup, DOE has considerable discretion concerning the actual allocation of Stimulus Package monies to individual sites in the DOE complex. DOE has historically used that discretion to New Mexico's detriment; HM 45 seeks to reverse that trend.

HM 45 also recognize that there are enforceable agreements, orders, and permits that govern cleanup at LANL. HM 45 specifically mentions the historic fence-to-fence cleanup order signed on March 1, 2005 (commonly referred to as the "Consent Order") by NMED, the DOE, the University of California (then the co-operator of LANL), the Attorney General, and the Lieutenant Governor. The Consent Order is a legally enforceable document and contains schedules, standards for cleanup, and stipulated penalties that all parties agreed to after nearly 3 years of painstaking negotiations that included the U.S. Department of Justice. Unfortunately, DOE has reneged on many facets of the Consent Order by failing to request adequate funding from Congress to carry

out its provisions. HM 45 appropriately bring attention to the shortfall, and DOE's responsibilities to keep its promises to cleanup LANL under the Order.

Finally, HM 45 highlights NMED's role in enforcing environmental laws, regulations, and enforceable documents – especially those relating to the LANL cleanup. HM 45 urges NMED to continue to diligently oversee LANL's cleanup progress, and enforce those regulations and orders pertinent to the LANL cleanup. NMED has initiated enforcement efforts concerning the LANL cleanup for the Lab's failure to disclose groundwater contamination, failure to adhere to approved work plans, failure to meet the schedules in the Order, failure to safely manage hazardous waste, and failure to fully investigate contamination. HM 45 urges NMED to continue enforcement efforts where appropriate.

RELATIONSHIP

House Memorial 45 is related to House Bill 106 which which limits the NMED's ability to assess civil penalties for certain violations of New Mexico's environmental laws. According to the NMED, HB 106 would compromise NMED's ability to enforce regulations and compliance orders for the cleanup of contaminated sites at LANL, as HM 45 requests.

GH/mc