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## FISCAL IMPACT REPORT

SPONSOR: Heaton DATE TYPED: 02/17/03 HB 192/aHENRC

SHORT TITLE: Amend Air Quality Control Act SB \_\_\_\_\_

ANALYST: Valenzuela

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	See Fiscal Impact			

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates Senate Bill 205

### SOURCES OF INFORMATION

Legislative Finance Committee files

Responses Received From  
 Department of Environment (NMED)  
 State Highway and Transportation Department

### SUMMARY

#### Synopsis of the HENRC amendment

The House Energy and Natural Resources Committee amendment to House Bill 192 substantially revises the original bill. The amendment proposes to amend the Air Quality Control Act by prohibiting the NMED from denying a construction permit for a cotton gin if the applicant uses “best system of emission reduction” as specified by the Environmental Improvement Board. The amendment further defines best system of emission reduction and caps the emissions at 50 tons per regulated contaminant per year.

NMED reports this bill could be interpreted by U.S. EPA as “constraining New Mexico’s ability to develop appropriate control strategies in areas found to be exceeding national ambient air quality standards”.

Synopsis of Original Bill

House Bill 192 amends the Air Quality Control Act by requiring the Environment Department to not deny an application for an air quality permit to cotton gins or other seasonal agricultural operations based on air quality dispersion modeling provided "best available control technology" is used. "Best available control technology" for cotton gins is defined in the legislation. Air quality dispersion modeling for these operations is only allowed in the case of permitting under the requirements for prevention of significant deterioration.

Significant Issues

Dispersion modeling is a computer simulation of emitted pollutants in the area surrounding an emitting facility, i.e., a cotton gin in this instance. The simulation uses meteorological variables to predict concentrations in the area over time. Industry has argued against using computer modeling techniques, such as dispersion modeling, because of the potential for these models to over predict pollutant concentrations. Therefore, the Department of Environment would have to use air quality monitors to track the actual emissions from these types of facilities.

NMED asserts that enactment of this bill could jeopardize the state's compliance with the federal Clean Air Act. The department references an U.S. Environmental Protection Agency (EPA) letter, dated January 22, 2003 and attached, which makes the following statement, "For New Mexico's new source review state implementation plan to remain approvable, the State agency must retain its authority to require modeling and test methods as determined necessary for both permitting and compliance decisions." The result of non-compliance could be New Mexico losing its new construction air quality permitting program.

NMED reports that there are seven cotton gins operating in New Mexico. Five of these facilities are grand-fathered under the requirements of the federal Clean Air Act until they seek modifications of its facilities.

**FISCAL IMPLICATIONS**

NMED reports that enactment of the bill could jeopardize the revenue generated in the new construction permitting program (\$1,200.0) and revenue generated from the federal government (\$600.0).

**ADMINISTRATIVE IMPLICATIONS**

After enactment of this bill, the department states that EPA could issue NMED a notice of deficiency requiring the state to come into compliance with the Clean Air Act within a specific time frame.

**MFV/sb :yr**