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## FISCAL IMPACT REPORT

SPONSOR: Nava DATE TYPED: 03/6/03 HB \_\_\_\_\_

SHORT TITLE: Create Water Recreation Facilities Fund SB 704\ aSCONC

ANALYST: Valenzuela

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$150.0	\$150.0	Recurring	New Water Recreation Facilities Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

Responses Received From

Department of Environment (NMED)

Energy, Minerals and Natural Resources Department (EMNRD)

### SUMMARY

Synopsis of the SCONC amendment

The Senate Conservation Committee (SCONC) amendment to Senate Bill 704 requires the Environmental Improvement Board to promulgate a fee schedule that is based on the size of the public water facility.

Synopsis of Original Bill

Senate Bill 704 proposes a new section to the Environmental Improvement Act that creates a “water recreation facilities fund”. Revenue to the fund would be generated from an annual fee up to \$150 paid by owner/operator of a public swimming pool, public spa or other public water recreation facility.

Significant Issues

Section 74-1-8 requires the Environmental Improvement Board to promulgate rules to ensure public health and safety of public swimming pools and public baths. In the New Mexico Admin-

istrative Code (7 NMAC 18.1.I.109) the EIB has established rules that require NMED to perform annual inspections of these facilities, which requires that water samples be taken and submitted to the Scientific Laboratory Division of the Department of Health. The cost of the water sample testing is covered by NMED. This bill would give EIB the authority to establish fees up to \$150 annually to offset the cost of the annual inspection.

### **FISCAL IMPLICATIONS**

NMED reports that there are approximately 1,000 facilities inspected annually. At a \$150 annual fee, the revenue generated would be \$150.0.

The LFC would recommend the following amendment:

Page 1, Line 20, after the word “be”, insert the following language “appropriated by the Legislature to the department to be”

This amendment maintains the appropriation authority with the Legislature, rather than allowing the department to increase its budget from the cash in this new fund.

### **OTHER SUBSTANTIVE ISSUES**

The LFC has communicated its serious concern to NMED about the special revenue funds appropriated to the department. Of the department’s 15 special revenue funds, 14 are appropriated to the department. The LFC objects to including continuing appropriation language in the statutory provisions for these special revenue funds. Earmarking reduces the ability of the legislature to establish spending priorities.

In fact, this problem has been particularly acute at NMED. The statutes governing the department’s 14 special revenue funds allow the department to increase its budget from available cash balances without regard to the 4 percent limitation imposed in the General Appropriation Act. Through the use of this budget adjustment authority, the department in FY01 increased its budget by 18 percent via these special revenue funds; in FY02, it increased the budget by 19.6 percent. Already, in the first quarter of FY03, it has increased its budget by 13.3 percent. In essence, the department restores its budget to the level of its original request despite the intent of the legislative appropriation.

This budget adjustment activity has significantly dropped cash reserves to dangerously low levels. In fact, several bureaus are confronted in FY03 with drastically reducing spending because the cash is no longer available.

### **POSSIBLE QUESTIONS**

How many of the annual inspections completed result in non-compliance? Is an annual inspection of these facilities effective?

MFV/lr:yr