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FISCAL IMPACT REPORT

SPONSOR Griego DATE TYPED 3/10/05 HB _____

SHORT TITLE Raise Food Sanitation Act Permit Fees SB 328/aSFC

ANALYST Hadwiger

APPROPRIATION (in \$000s)

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	See Narrative				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB455.

SOURCES OF INFORMATION

LFC Files

Comments received from:

Department of Environment (NMED)

SUMMARY

Synopsis of SFC Amendment

The amendment removes the continuing appropriation in the original bill.

Synopsis of the Original Bill

Senate Bill 328 would allow the Environmental Improvement Board to increase fees for issuance and renewal under the Food Service Sanitation Act such that no fee would be less than \$100.00 or more than \$200.00 annually for a food service establishment with not more than a \$25.00 incremental increase per fiscal year. Currently, statute sets the minimum at \$75.00 and the maximum at \$100.00 annually for a food service establishment and sets no maximum rate of increase. The bill would also appropriate funds from the Food Service Sanitation Fund to the Department of Environment (NMED)

Significant Issues

According to NMED, the \$100.00 current limitation on food permit fees allows the Department

to collect about one third of the cost of permitting and inspecting food service establishments in the state. All neighboring states presently have higher food permit fees than what New Mexico is requesting. The City of Albuquerque, who inspects food service establishments within the city limits, currently has a maximum permit fee of \$350. Currently only one inspection per year occurs at restaurant establishments. One inspection per establishment per year in addition to the many temporary food permits that the Department issues for special events such as county fairs, Indian Market, and the State Fair is not as protective of public health as other states provide to its citizens and tourists, especially for high risk establishments.

This original bill provided for continuing appropriations. The Legislative Finance Committee objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities. The SFC amendment removed the continuing appropriation.

PERFORMANCE IMPLICATIONS:

According to NMED, SB328 will facilitate the agency's capacity to collect additional fees, subsequent to EIB approval, and will enhance future performance measures. For example, the current performance measure for FY05 requires the Field Operations Division to perform one annual inspection per year for each restaurant facility. However, in many instances this is not sufficient, especially for the high risk facilities that are frequented by many patrons. Currently, due to budgetary and staff constraints, NMED has not identified food facilities that pose a high risk and require more frequent inspections than once a year. Additional fee revenues are needed to implement this Risk Based Food Establishment Inspections Program, which will have a definite positive impact by reducing the probability of serious food-borne illness outbreaks and provide better protection to persons in New Mexico. Additional fee revenues will allow NMED to enhance the current program, provide greater food service personnel training, continue and provide more public outreach programs, implement a high risk inspection program and antiterrorism protection.

FISCAL IMPLICATIONS

NMED indicates there are no recurring costs or additional revenues needed from general funds directly occurring from the passage of this bill. A future increase of \$25 in the permit fee would generate approximately \$160,000 in revenues per year.

ADMINISTRATIVE IMPLICATIONS: Additional revenues collected will allow for additional employees to assess, classify and conduct increased food safety and compliance inspections and implement the High Risk Based Food Establishment Inspection program. Environmental Improvement Board approval will be required to raise the permit fees, which may take a few months. In FY06, the assessment and classification of the facilities can be completed with increased inspections of high-risk food facilities starting in FY07. Current staff will absorb the additional tasks of review of the food establishments for risk classification. This will also provide administrative directive for implementing training and outreach education to the regulated industry and public.

OTHER SUBSTANTIVE ISSUES:

According to NMED, in December 2004, NMED responded to a major food borne illness out-

break in Alamogordo in which 93 people became violently ill. Additional revenues will aid the Department to provide greater sampling and protection to better determine the source of the food-borne outbreaks and prevent and eliminate the source, whether it is Salmonella, C. Botulinum, Escherichia Coli, or Campylobacter. Inspecting and permitting all food service establishments in the state is both a performance efficiency measure and required by law. Increased fees would aid the Department's ability to implement significant improvements to the overall food sanitation program for public safety and protection and provide for additional inspections for high risk facilities.

NMED indicates that the food program must develop and implement a bioterrorism emergency response plan to aide New Mexicans in the event of an emergency or terrorist attack. The additional funds in SB328 will support a high risk as well as an antiterrorist program.

DH/sb:yr