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FISCAL IMPACT REPORT

ORIGINAL DATE 2/22/07

SPONSOR Vigil LAST UPDATED _____ HB 1092

SHORT TITLE Lease and Rental Contract Indemnification SB _____

ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY07 | FY08 | FY09 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|--------------|------|-------|-------|----------------------|-------------------------|------------------|
| Total | | \$0.1 | \$0.1 | \$0.1 | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 69

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 General Services Department (GSD)
 Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill adds a new NMSA Section 56-7-3 which states that a provision of a lease or rental contract for goods or equipment that requires a party to the agreement to indemnify, hold harmless, insure or defend the other party to the agreement, including the other party's officers, employees or agents, against liability, claims, damages, losses or expenses, including attorney fees, arising out of bodily injury to a person or damage to property caused by or resulting from, in whole or in part, the negligence, act or omission of the indemnitee, its officers, employees or agents, is void, unenforceable and against the public policy of this state.

The bill also provides that a lease or rental contract for goods or equipment may contain a provision that requires one party to the contract to indemnify, hold harmless or insure the other party to the contract, including its officers, employees or agents, against liability, claims, damages, losses or expenses, including attorney fees, only to the extent that the liability, damages, losses or cost are caused by or rise out of the acts or omissions of the indemnitor or its officers, employees or agents.

The bill prohibits any requirement to name the indemnified party as an additional insured in the indemnitor's insurance coverage for the purpose of providing indemnification for any liability not otherwise allowed.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to an increase in lease disputes heard in New Mexico's courts. There may be an increase in the amount of work that needs to be done by the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

This bill attempts to correct the situation when a renter of equipment is forced to indemnify a rental company for the company's negligence and wrongful acts

The bill also applies to agreements for the temporary use of goods or equipment without a transfer of their ownership.

ADMINISTRATIVE IMPLICATIONS

There may be an administrative impact on the courts as the result of an increase in caseload or in the amount of time necessary to dispose of cases.

RELATIONSHIP

Relates to SB 69, Judicial Forum for Rental Contracts

TECHNICAL ISSUES

The AOC notes that on page 2, line 11: "... damages, losses or costs are caused by or rise out of the acts..." Perhaps this language should read, "...or arise out of the acts..."

DW/nt