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FISCAL IMPACT REPORT

ORIGINAL DATE 3-13-07

SPONSOR Garcia, M.P. LAST UPDATED 3-23-07 HB HM 97/aHF1#1

SHORT TITLE Study Dept. ff Environment Decisions SB _____

ANALYST Aubel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total			\$0.01*		Non- Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases) *See Fiscal Impact

Relates to HB 888/HENRCS and SB 880

SOURCES OF INFORMATION

LFC Files

Response Received From

New Mexico Environment Department (NMED)

No Responses Received From

Department of Finance and Administration (Local Government Division)

New Mexico Municipal League

New Mexico Association of Counties

SUMMARY

Synopsis of House Floor Amendment

The House Floor amendments add two primary changes:

1. "Cumulative and social impacts" are broadened and clarified throughout the bill to mean "cumulative impacts, economic impacts and social impacts";
2. NMED is now directed that the study regarding the legality and feasibility of adopting rules requiring NMED to consider these impacts include input from all stakeholders.

NMED notes the department routinely convenes stakeholder groups and this additional group should have minimal fiscal impact, primarily due to the use of a facilitator and staff time

involved in the meetings. However, the agency asserts that this requirement duplicates a process already established under Executive order 2005-056 regarding the Environmental Justice Task Force and Policy Committee, whose mission is to make recommendations regarding environmental justice issues to NMED.

Synopsis of Original Bill

House Memorial 97 directs the New Mexico Environment Department (NMED) to study how to effectively address the cumulative and social impacts of its decisions and to take into account the impacts of its decisions on the quality of life of residents in New Mexico communities. In studying these issues, NMED is directed to look at the legality and feasibility of adopting rules that require it to consider those impacts.

HM 97 requests that the study be submitted to the appropriate interim subcommittee no later than December 15, 2007.

FISCAL IMPLICATIONS

No appropriation is included in this bill, although NMED will incur a minimal fiscal impact for the FTE hours spent on producing the report. NMED suggests that if the department were to form an additional task force outside of the environmental justice task force already considering these issues, additional resources will be required.

SIGNIFICANT ISSUES

Currently, NMED's role is to evaluate regulated facilities for compliance with quantifiable public health and environmental protection standards. Under HM 97, the department will be required to study how it can address the wider issues of cumulative and social impacts on the community as part of the permitting process for a facility. NMED suggests that such considerations, including the citing impacts of a facility, would most appropriately be part of local government zoning and planning process prior to a facility spending money on attempting to obtain a permit.

HM 97 follows the decision of the New Mexico Supreme Court in the Rhino landfill case (*Colonias Development Council v. Rhino Environmental Services, Inc.*, 138 N.M. 133, 117 P.3d 939 (2005)). In *Rhino*, the Environment Department was forced to reevaluate a decision because it failed to consider evidence on community impacts and cumulative impacts.

ADMINISTRATIVE IMPLICATIONS

No FTE or other resources are dedicated to producing the study, which will require current staff members to produce the report in addition to their regular duties.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HM 97 relates to HB 888/HENRCS and the original duplicate SB 880, which establish a protocol for a community impact assessment report for certain facilities to be generated and included in NMED's decision-making process.

ALTERNATIVES

The Environment Improvement Board could review the memorial's request and submit a stakeholder report.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A report that looks how NMED's decisions on permitting facilities impact quality of life for residents of New Mexico communities will not be produced. However, the Environment Department will continue to integrate consideration of community impacts into its decision-making process, as required by regulation and the 2005 NM Supreme Court decision *Colonias Development Counsel v. Rhino Environmental Services, Inc.*

MA/nt:csd