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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/14
SPONSOR Louis **LAST UPDATED** _____ **HB** 343

SHORT TITLE Community Health Study Fund **SB** _____

ANALYST Weber

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		
	Indeterminate	Indeterminate	Nonrecurring	Community Health Study Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

House Bill 343 creates the Community Health Study Fund. The fund is nonreverting and consists of appropriations, fees, gifts, grants and donations. Income from investment of the fund shall be credited to the fund. DOH administers the fund, and money in the fund is appropriated to the department to carry out the purposes of this section. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

Beginning July 1, 2014 and extending through June 30, 2017, DOH is to conduct, with the full cooperation of the mining Commission, a comprehensive study, including the opportunity for public comment, to evaluate the health of persons working or living in communities associated with current and historical mining activities in the state, emphasizing those communities associated with uranium mining and milling and federally designated superfund sites related to uranium mining and milling. The following is to be included in the study: (1) identify those communities that have suffered air, land and water contamination from mining and milling, both historically and currently; (2) quantify the levels of contamination in those communities; (3)

compile existing health data of persons living in these communities and establish a baseline of the current health of communities in which proposed mining activities may be permitted by the mining commission; (4) create a health profile for these communities that indicates levels or rates of cancer, birth defects, mental health problems and other maladies that health experts have associated with mining and milling activities; and (5) propose to the mining commission conditions on permits that can mitigate the health consequences of permitted mining and mitigation efforts to alleviate the continuing consequences of historical mining.

DOH shall report to the appropriate interim legislative committee no later than October 1 of each year regarding the total expenditures from the fund for the previous fiscal year, the purposes for which expenditures were made, an analysis of the progress of the study funded, which shall include an estimate of whether the imposition of community health study fees by the mining commission needs to continue beyond June 30, 2017, and proposals, if any, for legislative action in the subsequent legislative session.

The bill then amends Section 69-36-7 NMSA 1978 (Mines) by adding to M a second sub-section that reads:

for the period beginning July 1, 2014 and extending through June 30, 2017, annual community health study fees that when combined shall equal and not exceed the cost of the comprehensive health study required pursuant to Section 1 of this 2014 act as estimated by the department of health, which fees shall be deposited in the community health study fund;

FISCAL IMPLICATIONS

The bill creates a new fee to be paid by mining entities. The total fees are to be equivalent to the cost for DOH to conduct the request study. The net is anticipated to be zero.

The revenue and operating expenses are designated as nonrecurring since both are to end by June 30, 2017, when presumably the study is completed and the operating expenses associated with it are zero and, consequently, the fee should the also be zero.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

EMNRD notes that the cost of the proposed study is not known at this time, and not estimated. Given the scope of the study, the cost could be significant.

SIGNIFICANT ISSUES

DOH notes:

The adverse health effects of mining are numerous and well known. Dusts created during mining create diseases such as coal worker's pneumoconiosis and silicosis in which mineral particles are deposited deep in the lung that cannot be cleared, thereby causing lung damage and scarring (p 502-4, Greenberg, Hethmon, Burgess. Mining Industry in:

Occupational Industrial and Environmental Toxicology, 2nd ed. Mosby, Pennsylvania 2003). Other hazardous exposures in mines include mine gasses, such as methane, sulfur dioxide and carbon monoxide and diesel exhaust (Greenberg et al. p 505-7). Of particular concern for uranium mining is radon gas, which is released when tailings piles are created during the extraction process (<http://www.epa.gov/radon/index.html>).

The U.S. Environmental Protection Agency (EPA) estimates the lifetime excess lung cancer risk of residents living nearby a bare tailings pile would be 500 lung cancer deaths per century (<http://www.wise-uranium.org/index.html>). Additionally, homes in New Mexico have been built with contaminated uranium mine waste, resulting in increased radon exposure (<http://www.epa.gov/region6/6sf/newmexico/grants/uranium-mine-brochure.pdf>).

The proposed Community Health Study would compile existing health data of persons living in mining communities. DOH does have databases of hospitalizations, emergency department visits, and cancer data. However, the analyses are conducted at the county level or sub-county level. These analyses then allow comparisons of health outcomes across different areas.

EMNRD adds:

The scope of the study required by HB 343 is very broad. To “evaluate the health of persons working or living in communities associated with current and historical activities in the state” is an enormous task. Current large mining operations range from coal in the NW to copper in the SW to potash in the SE to molybdenum in the NE with numerous other mineral operations scattered around the state. Historic mining operations date back several centuries and cover many communities across the state. HB 343 specifies an emphasis on the study of uranium mines and mills, but the study is not limited to these types of mining. Even so, uranium operations were found in over half the counties in NM during the boom period of the 1950s to the 1980s.

HB 343 would require more fees from the portion of the mining industry covered under the New Mexico Mining Act (NMMA). The NMMA rules will be amended to change to the fees section. 19.10.2 NMAC. Fees are currently imposed on the mining operations permitted under the NMMA. The NMMA fees currently support the work conducted by the EMNRD Mining Act Reclamation Program. Total annual revenue, from fees, deposited into the Mining Act Fund is approximately \$650,000. Fees added to this amount would depend on the yet to be determined cost of the study. The Mining Commission would have to conduct a hearing to address this change. The amount of increase to fees will not be known until estimated cost of the study by DOH.

HB 343 requires that the study propose to the NM Mining Commission conditions on permits that can mitigate the health consequences of permitted mining and mitigation efforts to alleviate the continuing consequences of historical mining. These conditions would likely be beyond the current scope of the NMMA which focuses on the reclamation of mine disturbed land and the prevention of environmental harm. By imposing conditions to alleviate consequences of historical mining, current mining operations could be forced to take actions at other older mines that are not part of their operations.

If the proposed conditions pertain to worker health and safety, these conditions are outside the scope of state law and under the jurisdiction of the federal Mine Safety and Health Administration (MSHA).

MW/ds