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FISCAL IMPACT REPORT

SPONSOR Ezzell ORIGINAL DATE 3/8/17
LAST UPDATED _____ HM 99

SHORT TITLE Use of Funds for Watershed Projects SB _____

ANALYST Armstrong

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		None				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SM124

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (OAG)
Energy, Minerals and Natural Resources Department (EMNRD)
NM Environment Department (NMED)

Responses Not Received From

Department of Game and Fish (DGF)
State Land Office (SLO)
Office of the State Engineer (OSE)

SUMMARY

Synopsis of Memorial

House Memorial 99 (HM99) requests the governor to convene meetings with the attorney general and general counsels of agencies that participate in planning or funding of watershed restoration projects to develop consistent application of laws governing the use of public funds. The memorial also requests a report to the appropriate interim legislative committee by September 2017.

FISCAL IMPLICATIONS

Participating agencies' would absorb the costs associated with this memorial, presumably staff time dedicated to attending meetings and forming policies for how statutes regarding use of public funds will be applied to watershed restoration projects.

SIGNIFICANT ISSUES

OAG analysis notes:

The “whereas” clauses of the memorial seem to imply, but do not expressly say, that some of the disagreements within and between agencies involve anti-donation clause issues. It might be helpful to further clarify the nature of the disagreements, in order to expedite the progress of any meetings held in response to the memorial.

NMED notes that HM 99 addresses an important public purpose that benefits the state as whole. Prevailing case law regarding the Anti-Donation Clause likewise finds a distinction in violations of this clause that are a benefit to the community as a whole and not government investment in a private project through the lending of public funds. NMED’s work through various programs often requires analysis on this very question and agreement through several government entities before a project begins, including, e.g., the New Mexico Attorney General’s Office and the State Board of Finance. Consensus on this issue may save time and effort since this is a recurring matter.

DUPLICATION

Senate Memorial 124 duplicates HM99.

JA/al/jle