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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	Steinborn	<b>ORIGINAL DATE</b>	01/25/21	
		<b>LAST UPDATED</b>	03/17/21	<b>HB</b>
<b>SHORT TITLE</b>	Radioactive Waste Consultation Task Force			82/aSCONC/aSJC/ SB aHENRC/ec
		<b>ANALYST</b>	Wan	

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$133.0	\$549.9	\$599.9	\$1,282.8	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)  
 Indian Affairs Department (IAD)  
 Department of Health (DOH)  
 Environment Department (ED)  
 Department of Public Safety (DPS)  
 State Land Office (SLO)  
 Department of Homeland Security and Emergency Management (DHSEM)  
 Department of Transportation (DOT)

### SUMMARY

#### Synopsis of HENRC Amendment

The House Energy, Environment and Natural Resources Committee amendment to Senate Bill 82 strikes language designating the chair and vice chair of the joint interim Legislative Radioactive and Hazardous Materials Committee as advisory members of the radioactive waste consultation task force. The amendment also adds that the findings of the task force's evaluations of new disposal facilities "shall not be construed as the state authorizing or consenting to the storage of high-level waste in New Mexico."

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 82 adds language to clarify that the authority of the radioactive waste consultation task force and state agencies with respect to federal or privately operated facilities is subject to the limitations of federal law.

Synopsis of SCONC Amendment

The Senate Conservation Committee amendment to Senate Bill 82 adds the commissioner of public lands or the commissioner's designee to the radioactive waste consultation task force.

Synopsis of Original Bill

Senate Bill 82 amends Section 74-4A-6 NMSA 1978, the Radioactive and Hazardous Materials Act, to expand the composition and duties of the Radioactive Waste Consultation Task Force (task force). The bill adds the secretaries of the Homeland Security and Emergency Management Department and the Indian Affairs Department to the task force, which currently consists of the secretaries of Energy, Minerals and Natural Resources; Health; Environment; Public Safety; and Transportation, as well as the state fire marshal, who is a nonvoting member.

SB82 expands the task force's scope to include review of federal license applications for privately operated radioactive material disposal facilities in New Mexico and evaluation of the public safety, environmental, health, infrastructure, and transportation impacts and requirements of the proposed facilities. Under SB82, the task force may also recommend legislation to implement the state's policies with respect to disposal facilities, a change from existing language that includes only "new federal disposal facilities." The bill also requires the task force to meet at least annually, rather than regularly, with the interim radioactive and hazardous materials committee. SB82 also amends the definition of "high-level waste" to include "highly radioactive materials produced as a byproduct of the reactions that occur inside nuclear reactors, including spent nuclear fuel" and clarifies that the definition of "radioactive materials" includes high-level waste.

This bill contains an emergency clause and would become effective immediately upon signature by the governor.

**FISCAL IMPLICATIONS**

The Department of Public Safety, Department of Health, and Indian Affairs Department (IAD) report SB82 would have no fiscal impact.

The Environment Department (NMED) estimates an operating budget impact of \$450 thousand annually to review federal license applications and evaluate environmental impacts as required by SB82. The estimated budgetary impact includes costs for personnel, training, and resources for 2 FTE to review a federal application, participate in public meetings, review complex technical data, conduct investigation work during the licensing process, and other associated duties. Because SB82 would become effective immediately upon being signed by the governor, NMED anticipates a need of approximately \$50 thousand in FY21 and \$400 thousand in FY22 to begin work on existing applications and build the program to full capacity. Recurring costs in FY23 and beyond are projected to be \$450 thousand annually to continue oversight,

investigations, and additional application reviews during the process of federal licensing and eventual operations of facilities.

The Energy, Minerals and Natural Resources Department (EMNRD) also anticipates a need for new staff to perform the review and evaluation required by SB82 at an annual cost of \$83 thousand. This amount would fund the salary and benefits of 1 FTE, an environmental scientist/specialist supervisor, to study the transportation, training, community response capabilities, and social justice impacts to spent nuclear fuel transportation.

The Department of Homeland Security and Emergency Management (DHSEM) estimates an additional FTE at an annual cost of \$66.9 thousand would be required to support the cabinet secretary's new responsibilities related to the task force, such as reviewing federal license applications for radioactive waste facilities, evaluating public safety, environmental, health, infrastructure, and transportation impacts and requirements of the proposed facilities, and coordinating the investigations and studies undertaken by all state agencies.

## **SIGNIFICANT ISSUES**

EMNRD submitted the following analysis:

“Currently, there are proposed radioactive and spent nuclear fuel projects in both the private sector and federal government that impact New Mexico. The federal government is seeking to dispose of surplus plutonium at the Waste Isolation Pilot Plant (WIPP); increasing transuranic waste production through the pit plutonium production program adding to the existing legacy inventory; and changing the definition of high-level radioactive waste which will increase the overall inventory of radioactive material that can be designated as transuranic for disposal at the WIPP. A private entity has submitted a license to the Nuclear Regulatory Commission (NRC) requesting to operate an interim storage facility for commercial spent nuclear fuel in Lea County. The license is currently in the review process at the NRC. If approved, the material would come to New Mexico for up to 40 years with the option of license renewal in 20-year increments. Without a federal disposal site for high level radioactive waste or spent nuclear fuel, the commercial material at the interim storage facility may be stored indefinitely in New Mexico.”

Analysis from IAD states,

“New Mexico's nations, tribes, and pueblos continue to be negatively affected by radioactive waste storage and transport around and/or near their tribal homelands. Tribal perspective on this task force would assist [IAD] to uphold its vision that ‘tribal nations, tribal communities, and Indigenous people are happy, healthy, and prosperous and that traditional ways of life are honored, valued, and respected.’”

## **PERFORMANCE IMPLICATIONS**

NMED reports that utilizing current staffing, the additional activities required by the adoption of SB82 will draw from existing resources and reduce the available resources for current permitting, monitoring, corrective action investigation, compliance, and enforcement activities.

## ADMINISTRATIVE IMPLICATIONS

SB82 directs the task force to review and investigate privately operated facilities seeking federal licenses for temporary or permanent disposal of radioactive material or waste. As discussed in the fiscal implications section, NMED and EMNRD anticipate a need for additional staff and resources to appropriately conduct reviews, investigations, and oversight.

IAD reports that due to limited capacity, the agency will need to work with an external partner to serve on the task force as the secretary's designee.

CW/sb/al