

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Creates a program to award advance purchase commitments for low-emissions cement, concrete, asphalt binder or asphalt mixtures related to road construction.

FISCAL IMPLICATIONS

Creating a program to award advance purchase commitments (APCs) for the purchase of low-emissions cement, concrete, asphalt binder, or asphalt mixtures for three or more years in the future could present several challenges to state government, both legal and logistical in character. The long-term nature of the commitment may expose both buyers (the state) and sellers to price volatility in materials, labor, and energy costs, which could lead to financial and procurement challenges if the costs of low-emission materials increase unexpectedly over time. Advance purchases could negatively impact the state general fund and create legal challenges in complying with procurement requirements. Requests for appropriation would need to be increased for purchases in advance. Increase in individual costs in outline years for goods and services. Additionally, the state may face fiscal difficulties if the needs or projects change over the course of several years, but they are locked into long-term agreements. This could lead to wasted resources if material specifications change, or projects are delayed.

SIGNIFICANT ISSUES:

Predicting the availability and consistency of low-emission materials over such a long horizon is challenging, especially in a rapidly evolving sector like construction. Currently, NMSA 13-1-158.1 NMSA 1978, which governs the payment for purchasing services, construction or items of tangible personal property prohibits prepaying for purchases and services. Further, producers may need to make significant upfront investments in facilities and technology to meet the expected demand, and these costs would be passed onto the state. Committing to producing large quantities of low-emission materials years in advance can be risky for producers if demand fluctuates or if government regulations shift unexpectedly. This could lead to overproduction or underproduction. Long-term purchase commitments could distort market pricing for low-emission materials, especially if large contracts are awarded to a few producers. This could reduce competition and potentially lead to higher prices in the absence of competitive bidding, which could lead to suppliers going out of business and the state without products. Additionally, the program might be negatively impacted and legally challenged by changing environmental, tax, or trade policies. New regulations could alter the economics of low-emission materials, making long-term agreements less favorable.

PERFORMANCE IMPLICATIONS

Enforcing long-term agreements may be more difficult if either the seller faces changes in business conditions, mergers, or shifts in market strategies. Also, smaller or newer producers of

low-emission materials may be at a disadvantage if large companies secure the majority of APCs, limiting market access and innovation. If the program increases demand for low-emission materials significantly, there may be a risk that supply chains and extraction processes for raw materials could have unforeseen environmental impacts, especially if demand outpaces the development of truly sustainable solutions. Also, If the program relies on certification or self-reporting for low-emission materials, there is a risk of "greenwashing," where companies falsely claim to produce or sell low-emission materials. This could undermine the credibility of the program and its environmental goals.

ADMINISTRATIVE IMPLICATIONS

Managing and tracking long-term contracts for APCs could be administratively complex and costly. Ensuring compliance with environmental standards, material quality, and delivery timelines over several years can be a logistical burden for both parties.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP:

N/A

TECHNICAL ISSUES

The success of such a program would likely depend on the state implementing or creating long-term government incentives and additional regulation changes would be necessary to include an amendment or waiver process to the NM Procurement Code. Incentives created today may not remain consistent, and a shift in policy could disrupt the viability of the APC program.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL: *None*

AMENDMENTS