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FISCAL IMPACT REPORT

SPONSOR Altamirano DATE TYPED 2-28-2005 HB _____
 SHORT TITLE State Property Purchase Gross Receipts SB 986
 ANALYST Taylor

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	NFI			General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
 Environment Department
 Energy, Minerals and Natural Resources Department

SUMMARY

Synopsis of Bill

Senate Bill 986 provides a gross receipts tax deduction for receipts from the sale of property or services purchased on behalf of the state from funds from financial forfeiture assurance pursuant to the New Mexico Mining Act or the forfeiture of financial responsibility pursuant to the Water Quality Act.

Significant Issues

These funds pay for environmental reclamation work.

FISCAL IMPLICATIONS

There is no immediate fiscal impact associated with this bill. According to the Environment Department, it has the effect of eliminating the requirement that mining companies include gross receipts tax in their payments into financial assurance that covers the estimated cost to the state of reclamation work using a third party contractor in the event the company fails to conduct the reclamation work.

In the event that the mining company actually failed to conduct the work, and the state had to

pay for the work using third party contractors, there would be a financial impact. The Environment Department's analysis notes that this has never happened in the brief history of financial assurance requirements. Their comments are replicated in the Significant Issues section of this report.

ADMINISTRATIVE IMPLICATIONS

The Environment Department and the Energy, Minerals and Natural Resources Department reported that the enactment of this bill would require them to recalculate the financial assurance requirements to remove gross receipts taxes.

OTHER SUBSTANTIVE ISSUES

The Environment Department's report flagged these issues:

This bill will not hamper the ability of New Mexico Environment Department (NMED) to fund the reclamation of mines where a bond forfeiture has occurred. Currently, NMED obtains financial assurance from mine operators calculated on the estimated cost of the state to complete the reclamation using a third party contractor. Gross receipts taxes are included in the calculation. If this bill passes, the State would no longer need to collect financial assurance for gross receipts taxes.

In the brief history of the financial assurance requirements under the Water Quality Act and Mining Act there have been no bond forfeitures. There are no current impacts on the collection of gross receipts taxes. NMED is not currently funding any reclamation work through funds obtained from the forfeiture of financial assurance under the Water Quality Act.

There is a possibility that future collections of gross receipts taxes will be diminished. NMED currently holds over \$520,000,000 in financial assurance under the Water Quality Act (Much of the financial assurance is held jointly with Mining and Minerals Division of the Energy, Minerals and Natural Resources Department and also covers obligations under the Mining Act). Each mining operation has an approved reclamation plan that provides for the operator to complete the reclamation and the financial assurance to be released. However, if the operator fails to conduct the reclamation, the State can forfeit the financial assurance and complete the work. Under that scenario, the State would no longer collect gross receipts taxes from the State's reclamation contractors.

There will be a slight benefit to mine operators whose financial assurance obligation will be reduced.

The Energy and Minerals Department issued the same comments except that they reported that they hold \$650 million in financial assurance under the Mining Act, but that much of this is held jointly with the Environment Department.

BT/lg