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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/09

SPONSOR Garcia, T. LAST UPDATED \_\_\_\_\_ HB 98

SHORT TITLE Greenhouse Gas Registry Program & Fees SB \_\_\_\_\_

ANALYST Aubel

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$200.0	\$200.0	Recurring	Air Quality Permit Fund*

(Parenthesis ( ) Indicate Revenue Decreases)

\*Includes maximum state revenues only and not fees accruing to local board funds.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Association of Commerce and Industry (ACI)  
 New Mexico Environment Department (NMED)  
 Energy, Minerals and Natural Resources Department (EMNRD)  
 New Mexico Department of Transportation (DOT)

### SUMMARY

#### Synopsis of Bill

House Bill 98 amends the Air Quality Control Act by adding a new section to provide for collecting fees from industrial and nonagricultural sources that emit more than 1,000 tons per year of carbon dioxide or carbon dioxide equivalent to support the costs of implementing a state greenhouse gas reporting and state greenhouse gas registry, two of the three enabling policy recommendations made by the New Mexico Climate Change Advisory Group in its December 2006 report.

### FISCAL IMPLICATIONS

HB 98 deposits fees into the Air Quality Permit Fund, which is a fund created in the Treasury and provides for continuing appropriations to NMED. The LFC has concerns with earmarking that reduces the ability of the legislature to establish spending priorities. Fees may also be collected by a local board and deposited in a fund pursuant to Section 74-2-16 NMSA 1978.

The total amount of fees collected annually is limited to \$200 thousand to each local entity and the Environment Department. No source shall be required to pay more than \$10 thousand per year in fees.

According to NMED, the department already has a regulation requiring reporting of greenhouse gases (GHG) in place and is currently collecting GHG emissions data statewide. The agency states that the department does not need additional funding to collect this information; it is collected at the same time as other air pollution emissions data is collected. Thus, there is no fiscal impact for the agency's operating budget to expend the additional fees accruing to the Air Quality Permit Fee Fund.

### **SIGNIFICANT ISSUES**

The bill authorizes the Environmental Improvement Board or local board to develop a schedule of fees sufficient to cover the reasonable costs of:

1. Preparing and maintaining a greenhouse gas emissions inventory; and
2. Developing and maintaining a greenhouse reporting and registry program.

The schedule of fees will be calculated according to standardized quantification protocols and procedures developed by NMED that conform to accepted national and international methodologies and protocols for determining combustion emissions.

The Association of Commerce and Industry points out that a reporting system and registry program for greenhouse gas emissions was developed in 2007 (effective January 1, 2008) by NMED (NMAC 20.2.87). NMED claims that additional fees are not needed to complete these functions, and a schedule of fees does not need to be adopted at this time.

### **TECHNICAL ISSUES**

EMNRD points out that those who file to pay the fee after the \$200 thousand cap is reached may have an advantage over those who filed earlier before the cap was reached. The "early filers" may challenge the process as a result.

DOT expresses a concern that the term, "industrial, nonagricultural sources," is not defined in the bill, as follows: "The term appears to pertain to "permitted sources," such as power plants, asphalt batch plants, concrete plants, etc., but does not appear to apply to fleet vehicles or heavy equipment. However, the term should be defined in order to clarify its intent. Otherwise, it could be misinterpreted to include vehicles and heavy equipment, which would have an impact on the Department of Transportation."

### **OTHER SUBSTANTIVE ISSUES**

ACI points out that the bill may inadvertently incorporate currently non-permitted small business sources not subject to regulation. Equipment used in small New Mexico businesses, including shop heating equipment, small power generators, and similar equipment that can be bought in local stores has a potential to emit 1,000 tons per year, resulting in small business owners incurring additional fees where none would normally be required.

## **PERFORMANCE IMPLICATIONS**

ACI notes that sources having a potential to emit 1,000 tons per year not currently subject to permitting would require identification and accountability. These sources have not been fully identified on a state-wide basis because of their relatively low potential to emit.

## **ALTERNATIVES**

ACI reports that NMED plans to introduce legislation in the 2009 Legislative Session that requires reporting for sources emitting 10,000 metric tons of GHG for imported electricity sources, transportation fuel sources, and fuel combustion sources for residential structures.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Environment department will continue to gather GHG emissions data.

MA/mt