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FISCAL IMPACT REPORT

SPONSOR <u>HJC</u>	LAST UPDATED _____
	ORIGINAL DATE <u>2/22/23</u>
SHORT TITLE <u>Enviro Standards for Appliances and Fixtures</u>	BILL NUMBER <u>CS/House Bill 185/HJCS</u>
	ANALYST <u>Sanchez</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
EMNRD Operating Budget	No fiscal impact	Indeterminate but minimal	Indeterminate but substantial		Recurring	General Fund
NMAG Operating Budget	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses to Original Bill Received From
 Energy, Minerals and Natural Resources Department (EMNRD)
 Office of the Attorney General (NMAG)

SUMMARY

Synopsis of the HJC Committee Substitute for House Bill 185

The House Judiciary Committee Substitute for House Bill 185 creates energy efficiency and environmental standards for air purifiers, commercial dishwashers, commercial fryers, commercial hot-food holding cabinets, commercial ovens, commercial steam cookers, computers and monitors, electric vehicle supply equipment, faucets, high color rendering index cold temperature and impact-resistant fluorescent lamps, portable electronic spas, residential ventilating fans, showerheads, spray sprinkler bodies, urinals, water closets, water coolers, and any other product designated by EMNRD under the authorities granted in the bill.

House Bill 185 specifies that environmental standards for appliances and fixtures do not apply to new products manufactured in New Mexico and sold outside of the state, used products, products held in inventory within the state before December 31, 2024, products installed in manufactured housing at the time of construction, or products designed expressly for installation and use in recreational vehicles.

Additionally, House Bill 185 provides testing, certification, and labeling standards for product manufacturers. The bill provides EMNRD with authority to conduct periodic, unannounced inspections of distributors or retailers of products listed in the act to determine compliance with the provisions of the act.

Finally, the bill authorizes the EMNRD to report violations to the Office of the Attorney General, who may institute proceedings to seek an injunction in state court to enforce the provisions of the act and pursue fines of up to \$500 for each product sold, and for each day a distributor or manufacturer remains in violation of the provisions of the act.

The effective date of this bill is January 1, 2024.

FISCAL IMPLICATIONS

The Energy, Minerals and Natural Resources Department did not estimate the fiscal impact of the original bill on its operating budget, stating it could not do so because the bill did not include specific deadlines or requirements to adopt additional standards or engage in enforcement activities. At the time of publication, EMNRD had yet to offer analysis on the House Judiciary Committee Substitute for House Bill 185.

Analysis of the original bill from the Attorney General’s Office (NMAG) stated that it might give NMAG additional prosecutorial jurisdiction and responsibilities, requiring additional legal and administrative resources. However, the agency did not estimate the total cost of these additional duties. At the time of publication, NMAG had yet to offer analysis on the House Judiciary Committee Substitute for House Bill 185.

SIGNIFICANT ISSUES

In its analysis of the original version of House Bill 185, EMNRD indicated the impact on businesses and consumers was indeterminate; absent specific deadlines or requirements for the agency to adopt additional standards or engage in enforcement activities, the impact on consumers could not be estimated. The House Judiciary Committee Substitute for House Bill 185 does include specific effective dates. However, at the time of publication, EMNRD has yet to offer analysis on the House Judiciary Committee Substitute for House Bill 185.

While the U.S. Department of Energy (DOE) already has appliance and equipment efficiency standards, New Mexico has yet to develop a comparable state-level program. Estimates on the amount of energy savings delivered to consumers are based on aggregated national data compiled over many years and managed through federal programs, such as the Energy Star certification offered by the DOE.

Analysis of the original bill from the Office of the Attorney General indicated that under Section 8 (B) and (C), additional language is needed to establish what the Attorney General would be required to do upon receipt of a complaint alleging a “possible violation.” NMAG’s analysis contended that the original bill did not specify whether the process for seeking an injunction began when a final determination by the Energy, Minerals and Natural Resources Department was received or if NMAG was authorized to begin proceedings seeking an injunction due to the mere possibility of a violation. It was also unclear if EMNRD was required to report a “possible

violation” to NMAG to seek an injunction or if EMNRD was required to wait until it had made a final determination before a referral could take place. Notably, the language did not permit NMAG to begin proceedings to seek an injunction for a possible violation. The House Judiciary Committee Substitute for House Bill 185 does include language clarifying the process for handling reports to the Office of the Attorney General. However, at the time of publication, NMAG had yet to offer analysis on the House Judiciary Committee Substitute for House Bill 185.

PERFORMANCE IMPLICATIONS

In its analysis of the original bill, EMNRD stated it needs more staffing and capacity to develop an enforcement program at the scale required to enforce the provisions of this bill. However, absent clear deadlines or requirements, EMNRD believes it could stand up such a program as more resources become available. Nevertheless, the timeline for the availability of such resources remains an open question. With an appropriation for additional staff at EMNRD, the standards outlined in this bill are likely achievable.

ADMINISTRATIVE IMPLICATIONS

Analysis of the original bill from the Office of the Attorney General indicated that the added responsibility of accepting anonymous tips online might implicate prosecutorial jurisdiction and responsibility, which would require additional attorney and staff resources. Additionally, NMAG’s analysis stated that reports of violation might require the office to initiate proceedings to seek an injunction in state court to enforce the provisions of this bill, which would also require additional attorney and staff resources. The scope and cost of these additional resources were not estimated in NMAG’s analysis.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

In its analysis, NMAG stated:

HB185 may need to be aligned with existing building codes in order to avoid any conflicts, in particular NMAC 14.7.6, the New Mexico Residential Energy Conservation Code, and NMAC 14.7.9, the New Mexico Energy Conservation Code, and NMAC 14.7, Building Codes General.

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