

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR <u>Jaramillo</u>	LAST UPDATED _____
	ORIGINAL DATE <u>2/1/23</u>
SHORT TITLE <u>Land Grant Waste Removal</u>	BILL NUMBER <u>Senate Bill 87</u>
	ANALYST <u>Sanchez</u>

APPROPRIATION* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
	\$1,000.0	Nonrecurring	General Fund

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

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	\$209.6	No fiscal impact	\$209.6	Nonrecurring	NMED Operating Budget
Total	No fiscal impact	\$209.6	No fiscal impact	\$209.6	Nonrecurring	

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

Sources of Information

LFC Files

Responses Received From

Department of Environment (NMED)
New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Senate Bill 87

Senate Bill 87 appropriates \$1 million from the general fund to the Department of Environment (NMED) for expenditure in fiscal year 2024 to contract for the removal of solid waste, liquid waste, and hazardous waste illegally deposited on the common lands of community land grants organized under state law.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The appropriation of \$1 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY24 shall revert to the general fund.

NMED expressed concerns about the resources required to fulfill the obligations outlined in Senate Bill 87. The agency's analysis explained the need for staff time and resources from three of its bureaus, Hazardous Waste, Solid Waste, and Environmental Health. Each will be required to oversee waste removal and ensure compliance with their respective regulatory authority. Additionally, the department estimates these activities and related administrative, procurement, and reporting services would cost the department approximately \$200 thousand in FY24.

NMED also estimated that 300 hours would be required to ensure coordination and oversight beyond the workload of the Hazardous Waste Bureau's incident coordinator. In addition, the agency estimates the total cost of this additional workload (approximately 12 percent above current levels) at \$9,600 in FY24.

SIGNIFICANT ISSUES

The Department of Environment (NMED) manages a grant award program for eligible entities to abate illegal solid waste and scrap tire dumpsites under Section 74-13-17 NMSA 1978, which receives an annual appropriation of \$800 thousand under the Recycling and Illegal Dumping (RAID) Act. NMED's analysis stated:

“While land grant communities are eligible for this funding, [NMED] rarely receives applications directly from land grant communities and only occasionally receives applications from entities that have partnered with land grant communities. One barrier to receiving this funding is the requirement that the applicant have a financial structure (meaning a chief financial officer and a bank account); many land grant communities do not have that structure.”

NMED's analysis expressed additional concerns regarding the absence of any requirement for land grant communities to take administrative or fiscal responsibility to ensure cleanup funding is effectively deployed. NMED further explained that the bill, as written, would not allow for the complete cleanup of illegal dumpsites spanning multiple properties with various owners (ranging from federal, state, local, and private land), which it indicated might result in continued illegal dumping even after partial cleanup.

According to the Attorney General's Office, SB87 could present a potential violation of the anti-donation clause. The anti-donation clause is not implicated for community land grants organized and operating as political subdivisions of the state. However, if a community land grant is not operating as a political subdivision of the state, the expenditure of funds for waste removal on lands within such grants would most likely constitute a violation of the anti-donation clause.

Senate Bill 87 specifies expenditures for common lands of community land grants organized under state law.

PERFORMANCE IMPLICATIONS

NMED's analysis included an explanation that absent specific guidance in the bill as to the location, amount, and type of waste to be removed; the department would have to develop guidelines to ensure efficient cleanup of waste on common lands of community land grants.

ALTERNATIVES

NMED's analysis acknowledged the challenges facing land grant communities, which frequently lack the financial structure of other political subdivisions. However, NMED stated that a possible alternative would be for the Legislature to create an avenue for developing such structures.

SS/al/ne