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FISCAL IMPACT REPORT

ORIGINAL DATE 1-26-07

SPONSOR Martinez LAST UPDATED _____ HB _____

SHORT TITLE Land Grant Waste Removal SB 240

ANALYST Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$600.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

Senate Bill 240 appropriates \$600.0 thousand from the general fund to the New Mexico Department of Environment in FY08 to contract for the removal of solid waste, liquid waste and hazardous waste illegally deposited on the common lands of community land grants.

FISCAL IMPLICATIONS

The appropriation of \$600.0 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY08 shall revert to the general fund.

NMED noted that its technical and administrative staff would provide contractor oversight to ensure the selected contractor(s) adequately performs the work and to ensure the services are procured in accordance with applicable laws and regulations, suggesting that the cost of this oversight function would likely not exceed 20 percent of the appropriation for waste removal. NMED stated that a slightly higher percentage of the appropriation would be used if contaminated site clean up or site remediation is added as an eligible expense, as proposed in the amendment, as shown in the Technical Issues section.

SIGNIFICANT ISSUES

The appropriation in Senate Bill 240 would be used specifically for contractual services to remove illegally disposed waste on community land grants. NMED noted that illegal waste disposal has been a chronic problem throughout the state, including land grant parcels. Furthermore, NMED specified that many land grants do not have the economic resources to pay for the clean up of their lands. Examples of the wastes include abandoned drums of unknown contents, used oil, domestic/municipal refuse, construction debris, asbestos containing materials, and seepage. Cleaning up these sites would benefit the citizenry by removing potential hazardous and other unsightly materials, thereby protecting human health, the environment, and surface and ground- water supplies.

NMED stated it would likely set up a fund for the cleanup activities. Examples of existing mechanisms within the department include the Hazardous Waste Bureau's Spill Response Program or a grant process established in the Solid Waste Bureau for tire abatement projects. Both bureaus could be used to provide contractor oversight and contract administration, depending on the type of material requiring removal.

PERFORMANCE IMPLICATIONS

NMED pointed out that performance in for the department would be enhanced due to additional protection of surface and groundwater supplies. Habitat and view sheds on community land grant lands would also improve. The removal of wastes would also act as a deterrent to prevent additional illegal dumping because those who dump illegally tend to dispose of wastes in areas already used for that purpose.

ADMINISTRATIVE IMPLICATIONS

NMED suggested that existing administrative functions within the Department within the Hazardous Waste Bureau's Spill Response Program, and the Solid Waste Bureau would need to be used to ensure that the procurement of contractors is in accordance with applicable laws and regulations, that adequate oversight of the contractor is performed, and that all work is completed in a timely and appropriate manner.

TECHNICAL ISSUES

NMED suggested adding language clarifying the definitions of "community land grant" and criteria for "cleanup" would be necessary to identify eligible recipients and projects.

NMED also recommended adding language to expand the scope of the bill to include remediation, as follows:

Page 1, line 20:

to contract for the removal and proper disposal or treatment of solid waste, liquid waste and hazardous waste illegally deposited on the common lands of community land grants organized under state law; and for other eligible contract expenses include any costs associated with clean up of soil or water contamination, site remediation and groundwater monitoring, as necessary.

ALTERNATIVES

A complete survey of all illegal dumping sites on community land grants would provide a basis for determining the total cleanup cost. This inventory could then be used as a basis for the state initiating a cleanup schedule based on degree of acreage involved and danger to public health or the environment. As part of this program, public outreach and other means of mitigating future dumping would be implemented.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Local government or private entities, who have limited resources, would continue to bear the burden of clean up. Most likely illegal dumping on common lands of community land grants would continue because many of these community land grants have no common funds to pay for clean-up. If wastes are not removed, they would continue to pose a threat to human health and the environment.

POSSIBLE QUESTIONS

1. What would be the mechanism for awarding the grants?
2. Would \$600.0 thousand be sufficient to address the illegal dumping on all the community land grants?
3. What would be the criteria and prioritization for competing recipients?
4. How would this bill ensure that all hazardous sites are addressed?
5. Would the illegal dumping sites be prioritized and proposals from the community grant-holders be requested, or would it be a first-come-first-serve system whereby the grants are recipient-driven?
6. If hazardous waste is involved, what happens if remediation language is not added to the bill?
7. What initiatives are involved to prevent future dumping once a site as been cleaned up?

MA/csd