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FISCAL IMPACT REPORT

ORIGINAL DATE 2-16-07

SPONSOR Feldman LAST UPDATED _____ HB _____

SHORT TITLE Illegal Dumping Task Force SB 939

ANALYST Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	100.0	Non-Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate*	Indeterminate*		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications

Companion to HJM 6

Duplicates HB 180

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Environment Department (NMED)

Energy, Minerals and Natural Resources Department (EMNRD)

New Mexico Association of Counties (NMAC)

Commissioner of Public Lands (CPL)

SUMMARY

Synopsis of Bill

Senate Bill 939 appropriates \$100.0 thousand from the general fund to NMED in FY08 to form a task force on illegal dumping.

FISCAL IMPLICATIONS

The appropriation of \$100.0 thousand to NMED contained in this bill is a non-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 the funds will be used by the Solid Waste Bureau to perform administrative tasks associated with developing a task force in FY08 and does not anticipate additional costs.

EMNRD pointed out that the bill funds the agency organizing the task force (NMED), but that each entity participating in the task force will incur costs that are not funded. As currently written, the appropriation does not appear to extend to any other agency, such as would be the case through a specific Joint Powers Agreement (JPA). The cost for additional agencies involved in the task force would depend on the number of participating entities funded from state funds and the extent of their participation.

In addition, it is likely that additional budget impact will be experienced by the agencies involved in implementing the task force recommendations, and that such amounts would be recurring as an ongoing, coordinated illegal dumping program starting in FY09. These recurring funds would depend on the scope of the coordinated program, the number of state-funded agencies involved, and whether the cost was incremental due to the expansion of current efforts or the addition of new activities relating to illegal dumping mitigation. It is also possible that an agency with a current illegal dumping program experiences a reduction in cost due to economies of scale, or that duplicative efforts across agencies are curtailed, thus producing cost savings. Unless a clearly-defined mapping of strategic implementation is developed, future costs remain indeterminate.

Except for NMED, no responding agency identified specific dollar impacts for either the task force portion in FY08 or the ongoing program portion beginning in FY09.

SIGNIFICANT ISSUES

NMED stated that illegal dumping is a serious and chronic problem in New Mexico and that it has aggressively sought to educate municipal and county governments, Native American tribes, and other state agencies regarding abatement of illegal dump sites at illegal dumping summits for the last five years. NMED believes that the creation of a task force on illegal dumping is the next step that is needed to continue, support and enhance these state-wide efforts.

CPL also stated that it has taken a proactive role in the effort to eradicate illegal dumping from state trust lands, with no fiscal impact to the general fund. The agency related through partnerships with a broad array of entities, 12,000 tons of trash has been cleared from 883 acres of trust lands. These projects included solid waste removal, hazardous material removal, “caliche” pit cleanup and contouring, fencing and gates, reclamation and education outreach.

The NMAC pointed out that by forming a statewide Illegal Dumping Task Force, local, state and federal entities could utilize shared resources and leverage possible additional funding.

PERFORMANCE IMPLICATIONS

NMED stated that would be no negative performance implications. EMNRD reported that such

a task force may indirectly benefit the Oil Conservation Division, because its duties include prevention of illegal dumping of oilfield wastes.

A performance measure tracking the effectiveness of implementing the task force recommendations could be tied to any appropriation and would presumably measure any reduction in illegal dumping incidents within the New Mexico.

ADMINISTRATIVE IMPLICATIONS

Without funding, it is likely that agencies other than NMED would have only minimal participation. Without laying the groundwork for implementing the task force recommendations as part of the original appropriation, the task force product may have minimal impact on reducing illegal dumping.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

A companion bill, HJM 6, requests that NMED and other entities create a “coalition” to study illegal dumping.

SB 939 duplicates House Bill 180.

TECHNICAL ISSUES

EMNRD noted that SB 939 appropriates funds for the creation of a “task force”, while another bill, HJM 6, requests a “coalition” of various entities to study illegal dumping and present a strategic plan. It appears that SB 939 is the appropriation bill for the coalition, but because HJM 6 uses the term “coalition” and SB 939 uses the term “task force,” that relation is unclear. There is no language in SB 939 tying the appropriation to the successful passage of HJM 6.

It is also unclear what happens if HJM 6 is not adopted. SB 939 will then be funding a “task force” on illegal dumping, but NMED will have no guidance on who is to be included in the task force or what the task force is supposed to do. EMNRD also pointed out that “illegal dumping” is not clearly defined in either HJM 6 or SB 939, and that such guidance to the task force or coalition is therefore lacking. HJM 6 has passed the House Energy and Natural Resources Committee, as amended.

ALTERNATIVES

Convene a task force on a volunteer basis, such as the task force convened pursuant to the 2006 HM 5 to prepare a strategic plan regarding mercury reduction.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

EMNRD noted that if HJM 6 were adopted, but not SB 939 or HB 180, NMED would not have the resources to carry out the requested activities. NMED maintained that if this bill is not passed, NMED would be denied the state-wide opportunity to tie together the collective talents and expertise of numerous parties interested in eradicating illegal dumping. Individual, piecemeal endeavors would continue, but the potential for a larger, stronger, and more significant and effective abatement efforts against illegal dumping would be lost. NMAC similarly stated

that without the formation of a statewide Illegal Dumping Task Force, illegal dumping initiatives will most likely result in less effective outcomes and an increased cost for local, state and federal entities.

MA/mt