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FISCAL IMPACT REPORT

SPONSOR Martinez, RC **ORIGINAL DATE** 01/24/14
LAST UPDATED _____ **HB** _____

SHORT TITLE Land Grant Waste Removal **SB** 86

ANALYST McCoy

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
	\$1,000.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General’s Office (AGO)

New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

Senate Bill 86 appropriates \$1 million from the general fund to the Department of Environment (NMED) for expenditure in fiscal year 2015 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.

FISCAL IMPLICATIONS

The appropriation of \$1 million contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2015 shall revert to the general fund.

The NMED reports, the funding in the bill is more than adequate to complete removal, transport, and proper disposal and management of wastes at several large dumpsites; however, the appropriation amount may be too great to expend in fiscal year 2015, as the extent of the problem of waste illegally deposited on common lands of community land grants is not fully

understood by the agency. According to the NMED, a certain amount of the appropriation would have to be dedicated to assessing the problem of improper disposal on common lands of community land grants before NMED could make an adequate assessment of the anticipated costs of contracting for such removal. The agency notes, contracting for and performing such an assessment would take up most of the fiscal year 2015, and it is unforeseeable that the anticipated removal of such waste could be completed by the end of fiscal year 2015. Additionally, the NMED reports, the bill includes solid, liquid and hazardous waste but it does not address any costs associated with waste and site characterization/evaluation, packaging and proper disposal of solid, liquid or hazardous waste at a permitted facility, or site remediation, if necessary, by an appropriate firm with the expertise to manage and remediate contaminated sites.

The NMED notes, the bill does not specify where the appropriated funds will be deposited. Without this information, use of these resources may be difficult. The appropriate fund to facilitate use of these funds is the “recycling and illegal dumping fund” as specified in the Recycling and Illegal Dumping Act, Section 74-13-19 NMSA 1978.

The recycling and illegal dumping fund will have a projected balance of \$1.1 million at the end of fiscal year 2014.

SIGNIFICANT ISSUES

According to the Attorney General’s Office, SB 86 could present a potential violation of the anti-donation clause of the New Mexico Constitution (Article IX, § 14). For community land grants organized and operating as political subdivisions of the state, the anti-donation clause is not implicated. 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.

The proposed bill specifies expenditures are for common lands of community land grants organized under state law. The NMED reports, other public lands and tribal entities also have sites with illegally dumped solid waste and tires. By limiting the funding to land grants only, the impact on clean-up of other dump sites located within other public lands in New Mexico will be limited.

AMENDMENTS

The NMED proposes the following amendments:

- Include language to allow NMED to obtain the services of qualified contractors to complete assessments of land grants and other public property to acquire an estimate of clean-up and remediation costs, as necessary.
- Broaden language to include clean-up of tire dump-sites.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

NMED will continue to issue grants through the existing Recycling and Illegal Dumping Program.

MTM/ds:jl