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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/10/21  
 SPONSOR Pinto LAST UPDATED 02/16/21 HB \_\_\_\_\_  
 SHORT TITLE Regional Hazmat Response Volunteer Teams SB 276/ec  
 ANALYST Hitzman

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$30.0	\$30.0	\$60.0	Recurring	General Fund
<b>Total</b>		\$10.0	\$10.0	\$20.0	Recurring	Emergency Fund (9570)

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Response Received

Department of Homeland Security and Emergency Management (DHSEM)  
 New Mexico Environment Department (NMED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 276 requires state agencies to coordinate development of a Regional Volunteer Response Team to assist with hazardous materials accident responses. The bill amends the definition of “hazardous substances” to include viral diseases, including the Coronavirus Disease 2019.

The bill also amends statute defining the state responsibility for management of accidents, immunity from liability, cooperative agreements and private property provisions to allow a regional volunteer team, made up of state employees, to assist in accident response at the discretion of the state director.

The bill requires state agencies to designate one person knowledgeable in accident response – amended from ‘hazardous materials’ – to be the agency’s training officer, who is responsible for assisting in training volunteers and coordinating with other state agency’s response teams. This regional volunteer response team shall assist local governments in accident response.

This bill contains an emergency clause and would become effective immediately upon signature by the governor.

### **FISCAL IMPLICATIONS**

This bill does not make an appropriation to any state agency or other local entity. However, to implement the program, the DHSEM notes that a full-time equivalent position would be required within the department to oversee, train, and coordinate with the 13 existing Hazardous Materials Teams, estimating additional general fund costs of \$30 thousand per year for this purpose.

NMED also notes the potential need for staff to manage increased training requirements for volunteer teams, estimating a \$10 thousand cost to the emergency fund each year for these purposes, as the NMED currently uses CARES Act funding to cover costs incurred by NMED volunteers.

### **SIGNIFICANT ISSUES**

According to DHSEM, the bill would not conform to federal regulations governing hazardous materials because viral agents are not currently considered hazardous materials - therefore not subject to reporting requirements under the U.S. Emergency Planning and Community Right to Know Act, the Clean Air Act, nor the Comprehensive Environmental Response, Compensation, and Liability Act – and are not regulated by the Environmental Protection Agency.

DHSEM also notes that the state director may not be able to deploy such volunteer response teams for several reasons:

- 1) Training and certification requirements are specific for Hazardous Materials Emergency Response, which is governed by OSHA federal laws and regulations 29 CFR Section 1910.120 (Hazardous Waste Operations and Emergency Response),
- 2) New Mexico has 13 authorized Hazardous Materials Teams that respond to hazardous material incidents, authorized by the National Incident Management System. Team members must be trained to the First Responder Operations Level, at a minimum,
- 3) There is a potentially elevated risk associated with deploying volunteers in a hazardous materials response, due to the training and certifications generally required, and
- 4) A Hazardous Materials Team Training Officer is required to have the Hazardous Materials Technician Level certification and a Train-the-Trainer certification.

In addition, removing the term ‘hazardous materials’ from the act could increase demand on the Hazardous Materials Response Team, even in non-hazardous situations. As written, SB276 does not appear to comply with federal law according to the DHSEM.

### **PERFORMANCE IMPLICATIONS**

The bill notes that the state government has the primary responsibility for managing accidents, while local governments whose jurisdiction the accident occurred in shall assist the state in management of the accident. SB276 would allow for a regional hazmat response volunteer team, made up of state employees, to assist local and state governments in assessing the need for emergency management on-site of the accident and assist in accident response.

As written, SB276 would allow the Hazardous Materials Response Team to respond to non-hazardous situations, which may not allow for timely accident response given increased demand on the teams.

NMED also notes that removing the knowledge requirements in the area of hazardous materials may result in deployment of training officers who lack proper emergency hazardous response training, increasing risk to the volunteer teams and training officers in charge of accident response when situations are indeed hazardous.

### **ADMINISTRATIVE IMPLICATIONS**

Expanding the definition of hazardous substances to include viral diseases may result in a need for additional administrative efforts and increased demand within DHSEM and the NMED to implement timely accident response related to the Coronavirus Disease 2019. Additionally, training requirements and coordination with the 13 pre-authorized Hazardous Material Response Teams in New Mexico could result in additional FTE and staffing costs to ensure proper certification and training for volunteers and training officers. If training officers require several certifications to comply with federal law, it is likely that administrative costs would increase if the bill requires a training officer be present within each state agency.

JH/al/rl