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## FISCAL IMPACT REPORT

ORIGINAL DATE 2-18-07

SPONSOR Cisneros LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Liquid Waste Fund Purpose & Distributions SB 921

ANALYST Aubel

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	(\$0.01)	Recurring	Liquid Waste Fund
	See narrative	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act  
 Relates to SB 702, SB 920, SB 919, HB 859, HB 1130  
 Duplicates HB 858

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Environment Department (NMED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 921 sets limits on how the liquid waste fund could be utilized by the New Mexico Environment Department and requires an annual budget for the fund, as well as an annual audit by the Legislative Finance Committee (LFC). The bill would limit NMED expenditures from the fund to 12 percent for administration of liquid waste rules and to 38 percent for a liquid waste certification program and a public awareness education program.

### FISCAL IMPLICATIONS

Fees from liquid waste permits are deposited in the liquid waste fund, which is used to run the Liquid Waste Program. In FY06, expenditures were \$1.2 million and fee revenues were \$845.8 thousand. Therefore, the cost to operate the Liquid Waste Program throughout the state exceeded the liquid waste fee revenue collected. For the program to continue, any reduction in its

current funding source would require replacement from the general fund. Because a fund balance date is not specified, the exact amount of general fund that would be required indeterminate. The unrestricted fund balance as of June 30, 2006 was \$15.5 thousand.

## **SIGNIFICANT ISSUES**

Most of the expenditures in any fiscal year are for program administration functions of the liquid waste rules, including permitting, inspections, and enforcement. Other administrative program functions include program planning, training and development (including development of a certification program), regulation review and amendment, and public outreach and education.

Timely permit reviews and a high percentage of inspections are critical services that NMED provides to the taxpayers. Any reduction in the delivery of those services would be detrimental to New Mexico. Illegal or improper liquid waste systems can pose imminent public safety hazards related to entrapment, asphyxiation and drowning, and can create public health hazards related to surfacing sewage and pollution of both private and public drinking water supplies.

HB 858 proposes an expenditure limit of 38 percent of the liquid waste fund for a liquid waste “certification program and a public awareness education program.” NMED has been developing its certification program and conducts extensive public education.

NMED’s revenue and expenditure records for the liquid waste fund are already subject to review by LFC and DFA. NMED notes that it welcomes any additional examination or audit that the Legislature deems appropriate.

NMED has determined that substandard and failed septic tanks and illegal cesspools are the leading contributor to groundwater combination in the state.

## **PERFORMANCE IMPLICATIONS**

NMED maintains that SB 921 would have a detrimental impact on performance of the Liquid Waste Program if the funding is not provided. In that case, the timeliness of permit reviews and the number of inspections conducted would be decreased, and NMED’s ability to prevent and eliminate public safety and health hazards from violations of liquid waste rules would be impaired. The Liquid Waste Program would not meet its performance measures because inspections for systems throughout the state would be curtailed.

## **ADMINISTRATIVE IMPLICATIONS**

HB 858 would create additional administrative work for NMED related to accounting for different activities funded by the liquid waste fund and concludes that the financial recording for tracking limitations on program activities would be substantial.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Duplicates HB 858.

Relates to funds appropriated to NMED in the General Appropriations Act

Relates to SB 702, SB 920, SB 919, HB 859, HB 1130, all which are legislative efforts directed

at reducing the impact of substandard, on-site liquid waste systems on groundwater.

### **TECHNICAL ISSUES**

The percentages for establishing expenditure limits are based on fund balance, which can fluctuate.

### **OTHER SUBSTANTIVE ISSUES**

NMED points out that the potential decreases in program performance could result in tort liability claims against the state caused by injuries and illness and by damages to water quality and property rights.

### **ALTERNATIVES**

One option would be to establish a periodic schedule of audits for all special funds managed by NMED.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

NMED will continue the liquid waste program as currently managed. Most likely no LFC audit will be performed, although such an audit can always be made part of a future work plan since this does not require additional legislative authority.

### **POSSIBLE QUESTIONS**

1. What is the benefit of restricting the fund's use for specified activities?
2. What is the cost of achieving those benefits?

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