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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/10

SPONSOR Giannini LAST UPDATED _____ HB 59

SHORT TITLE Plastic Bag Recycling Act SB _____

ANALYST Wilson

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
		\$1.0-\$2.0	Recurring	School Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$50-\$75.0	\$500.0	\$1,500.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Environment Department (ED)

Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 59 creates the Plastic Bag Recycling Act. The bill will require the New Mexico Environment Department to create a plastic bag recycling program for all plastic bags provided by a store to a customer at the point of sale for transporting purchases from the store.

The bill will also require stores to make reusable bags available to customers within the store for use in lieu of plastic or paper carry-out bags. The bill provides for penalties of \$100 for the first violation of the act, \$200 for the second violation and \$1,000 for a third and subsequent violations. Fines collected will be remitted to the current school fund.

FISCAL IMPLICATIONS

This bill provides no mechanism to fund ED for implementation, administration, and enforcement. ED does not currently have the economic or staff resources to complete enforcement inspections at retail establishments. The Solid Waste Bureau Enforcement Section currently has numerous vacancies as four out of eight positions are vacant. Additional general funds will need to be allocated to the ED to hire additional staff to implement, administer and inspect the program set up under HB 59.

ED estimates they will need three new officers to cover the State .Each officer with benefits, vehicle, office rental, gas supplies each will cost 91,000 for a total of \$273,000. There will be additional costs for management administration and if rule making is undertaken there will be the cost of attorney's, stakeholder meetings, retail training, printing of materials and assistance of the Solid Waste Bureau's outreach staff. ED estimates the total cost to be at least \$500,000.

ED states it takes at least 18 months or more than two years to implement a new program. There will be some start up cost for the agency.

There will probably be very little revenue generated as most retail outlets are already voluntarily providing durable bags, and providing plastic bins. Revenues from fines to the school fund will not begin until FY 12 at the earliest.

SIGNIFICANT ISSUES

ED notes in three other states with similar legislation, Delaware, New York, California the enforcing agency collects the fines and uses them to fund their enforcement efforts, which is not necessarily a good model for funding. It must be noted that the three states with such a law are high density, higher population states with many more large cities, population centers and retail outlets as compared to New Mexico. It will be difficult to overcome the economy of scale issue in New Mexico to effectively recycle plastic bags.

The bill as written does not include a provision for the adoption of rules or regulations to implement such a program. It does not specify which entity will approve such rules. Without development of regulations, program implementation, administration and enforcement are not possible. For example, how will adequacy of educational materials be determined without rules about what must be included?

ADMINISTRATIVE IMPLICATIONS

ED will have to adjust the duties and requirements of staff members in the Solid Waste Bureau to comply with the bill. The Solid Waste Bureau currently has a 35 percent vacancy rate and a 50 percent vacancy rate in both the enforcement and outreach sections, and is currently unable to fill vacant positions due to the hiring freeze.

RELATIONSHIP

SB 59 relates to HB 133, Disposable Carry-Out Bag Tax Act

OTHER SUBSTANTIVE ISSUES

Currently, most large retail chains that will be affected by this bill are offering customers reusable canvas or other durable bags to replace the use of plastic bags. They are also providing voluntary recycling receptacles for recycling of plastic bags. Many retail stores are also offering a five cent rebate for persons bringing in their own reusable bags as an incentive to not use plastic bags.

DW/mt