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FISCAL IMPACT REPORT

SPONSOR <u>Steinborn/Diamond</u>	LAST UPDATED <u>2/27/2023</u>
SHORT TITLE <u>Recycling and Litter Reduction</u>	ORIGINAL DATE <u>2/6/2023</u>
	BILL NUMBER <u>Senate Bill 182/aSCONC/aSFC</u>
	ANALYST <u>Dick-Peddie</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$113.8	\$113.8	\$227.6	Recurring	Recycling anti illegal dumping fund (RAID)

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From

New Mexico Tourism Department (NMTD)
 New Mexico Environment Department (NMED)
 New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of SFC Amendment to Senate Bill 182

The Senate Finance Committee removed all appropriations contained in the bill.

Synopsis of SCONC Amendment to Senate Bill 182

The Senate Conservation Committee amended the bill to include a \$1 million appropriation to the Tourism Department for the proposed state-wide litter campaign. The appropriation is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY24 shall revert to the general fund.

Synopsis of Original Bill

Senate Bill 182 updates the Litter Control and Beautification Act and the Recycling and Illegal Dumping Act. Senate Bill 182 would amend Section 67-16-2 NMSA 1978 to include cities, counties, state government, nonprofit organizations, and federal land management agencies in the mission of developing a statewide litter and solid waste reduction program with the Tourism Department. The legislation also updates the Tourism Department's requirement to conduct an

ongoing advertising campaign to educate the public about litter reduction.

SB182 also creates the position of "recycling and waste reduction education coordinator," within the Tourism Department to be funded from the New Mexico Environment Department's recycling and illegal dumping (RAID) fund. The bill requires the Department of Environment, Tourism Department, Department of Transportation Office of Highway Litter Control, New Mexico Outdoor Recreation Division of the Economic Development Department, State Parks Division of Energy, Minerals and Natural Resources Department, clean and beautiful program coordinator, New Mexico Clean and Beautiful Advisory Committee and the recycling and waste reduction education coordinator to collaborate on strategies to increase recycling and litter reduction, state litter reduction education, and marketing and funding priorities.

Finally, the legislation expands the eligibility for grants under the Recycling and Illegal Dumping Act to include municipalities, counties, Indian nations, pueblos, tribes, land grant communities, and federally recognized nonprofit organizations. The legislation repeals the following criteria:

- The ability of qualified entities applying for grants to public landfills to submit competitive bids for loans for specified costs related to recycling and illegal dumping.
- The first priority for funding from grants as abatement of illegal scrap tire dumpsites and recycling of scrap tires.
- A grant, loan, or contract for processing shall not be awarded for those who receives less than 95 percent of recyclable materials from sources in New Mexico.
- The requirement that at least 2/3 of budgeted grant money in each fiscal year be allocated to tire abatement and recycling and the remaining 1/3 be allocated to abatement of illegal dumping and recycling of other solid wastes.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The appropriation of \$1 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY24 shall revert to the general fund. The House Appropriations and Finance Committee substitute for House Bill 2 does not include funding for this specific initiative but does include approximately \$13 million to the Tourism Department for marketing and local tourism development.

Senate Bill 182 creates a staff position within the Environment Department to be funded from the existing RAID fund. The RAID fund receives revenue from fees on motor vehicle registrations, currently established in the Motor Vehicle Code, with the intent to offset negative impacts tires and motor vehicle parts have on recycling and illegal dumping. The Additional Operating Budget Impact reflects the cost of a permanent staff member at the agency to fulfill these duties, approximately \$113.8 thousand annually.

The New Mexico Environment Department notes the legislation creates a recurring expense to the fund, but does increase revenue into the fund, which would decrease the amount of funding available for grants.

SIGNIFICANT ISSUES

NMED notes the RAID Act does not provide for recycling and waste reduction education for materials other than scrap tires. It is unclear whether the newly created position would continue to be funded from the RAID fund even if the job duties included activities that are not part of the RAID Act and therefore not currently allowable for RAID funding.

Though the legislation requires multiple state agencies to collaborate on recycling and litter reduction strategies, the bill does not describe metrics for outcomes of this collaboration. The department also notes that the RAID alliance, an appointed volunteer body, already does many of the duties enumerated in the bill.

SB182 adds nonprofit organizations to the list of entities eligible for RAID grant funding. This addition will increase competition amongst currently eligible entities, including local governments. Nothing in the RAID Act prevents non-profit organizations from partnering with currently eligible entities, which is a common practice among several New Mexico-based nonprofits. NMED has concerns that Senate Bill 182 does not restrict eligibility to nonprofit organizations based in the state, potentially increasing applications from national groups and diverting RAID funding out of the state.

TECHNICAL ISSUES

The New Mexico Attorney General notes that the bill may violate the Anti-Donation clause of the New Mexico Constitution:

Section 4 of Senate Bill 182 may implicate the Anti-donation Clause of the New Mexico Constitution, given that the recycling and illegal dumping grants are government funded. However, the applicability of the Anti-donation Clause depends on each specific instance of government aid. For example, a nonprofit may receive state funding without violating the anti-donation clause, so long as the state receives adequate consideration in return. *See Village of Deming*, 1956-NMSC-111, ¶ 37. Additionally, under subsection H, “the state is not prohibited from expending state funds or resources for the purpose of providing essential services primarily for residential purposes if the assistance is granted pursuant to general implementing legislation approved by a majority vote of those elected to each house of the legislature.” N.M. Const. art. IX, § 14.