

**EXECUTIVE AGENCY**  
**FISCAL NOTE**

AGENCY'S ESTIMATES

Date Prepared: April 5, 2017

Agency Submitting: State Department of Conservation and Natural Resources, Division of Environmental Protection

<b>Items of Revenue or Expense, or Both</b>	<b>Fiscal Year 2016-17</b>	<b>Fiscal Year 2017-18</b>	<b>Fiscal Year 2018-19</b>	<b>Effect on Future Biennia</b>
Revenue (Revenue)		\$39,628,800	\$31,703,040	\$53,768,356
Expense-Fiscal Mgmt (Expense)		\$294,943	\$290,570	\$871,710
Expense-Compliance (Expense)		\$1,779,483	\$2,089,189	\$6,267,567
Total	0	\$37,554,374	\$29,323,281	\$46,629,079

Explanation

(Use Additional Sheets of Attachments, if required)

The NDEP has reviewed the bill and determined that there is a fiscal effect. Please see Exhibit 1.

Name Jennifer Carr

Title Deputy Administrator

**GOVERNOR'S OFFICE OF FINANCE COMMENTS**

Date Tuesday, April 04, 2017

The agency's response appears reasonable.

Name Colleen Murphy

Title Budget Officer

## DESCRIPTION OF FISCAL EFFECT

BDR/Bill/Amendment Number: 40-958 / AB344

Name of Agency: Environmental Protection

Division/Department: Conservation and Natural Resources

Date: 4/3/2017

The Division of Environmental Protection has reviewed BDR 40-958 and determined that there would be a fiscal effect as described below.

Every retailer in the State who provides a plastic bag at checkout for storing, carrying or transporting purchased goods shall collect a fee of \$0.10 per plastic bag. This fee is to be collected by the NDEP and deposited in a Fund for the purpose of cleaning up the environment. The NDEP is to administer the Fund.

### **Estimated Revenue:**

The Division has roughly estimated the number of plastic bags currently used each month by retailers around Nevada. One Northern Nevada Walmart purchases approximately 768,000 bags a month. There are reportedly 43 Walmart stores in Nevada, resulting in at least 33,024,000 bags used each month by Walmart, alone. If doubled to account for all the other Nevada retailers, NDEP started with an assumption of 66,048,000 bags a month.

Initial revenue for 12 months at \$0.10/bag could be \$79,257,600. Assuming an immediate 50% reduction in bag usage based on public behavior modification, and another 20% per year reduction in Years 2-5, the NDEP estimates revenue at \$39.6M in Year 1, \$31.7M in Year 2, and a cumulative total for years 3-5 at \$53.8M.

### **Estimated Expenses:**

#### Fund Management

The NDEP's estimated expenses are based on the level of effort required by the bill. Specifically:

- Section 11 requires the NDEP to administer the Plastic Bag Environmental Cleanup Fund and adopt related regulations.
- Section 12 requires the NDEP to collect the per-bag fees from the retailers from July 1, 2017 to December 31, 2021 and adopt related regulations.
- Section 13 requires the NDEP collect fines from retailers who violate the law (after January 1, 2022 and beyond), account for the fines separately and transmit them to the Treasurer. The NDEP shall adopt related regulations.
- Section 17 requires the NDEP to collect from a retailer any payments in default for fees or fines.

Given these new regulatory and administrative requirements, the NDEP would propose to administer the Plastic Bag Environmental Cleanup Fund with staffing as outlined below. The effective date of the bill is July 1, 2017; the proposed positions were also budgeted for a July 1, 2017 start date.

#### Expense for New Positions:

Budget Analyst 2	Year 1 = \$115,964;	Year 2 = \$117,902
Accountant Technician 1	Year 1 = \$93,542;	Year 2 = \$94,903
Accounting Assistant 3	Year 1 = \$76,853;	Year 2 = \$77,765
Total Year 1 =		\$286,359; Year 2 = \$290,570

The new positions would be responsible for administering the fund for both revenue and usage. Revenue will be collected for 2017 – 2021, but it is assumed that the Fund will continue to be solvent for a number of years longer to utilize the account for cleanup of the environment. This is assumed to include transfers to other budget accounts or state/local agencies, as well as possibly letting grants or using contracts for cleanup activities.

#### Regulation Development:

Sections 11.5, 12.3, and 13.5 require the NDEP to adopt regulations deemed necessary for administration and accounting of the Fund, as well as transmittal of fines to the Treasurer for deposit into the General Fund. Regulation Development and adoption through the State Environmental Commission is estimated at \$8,584 for Year 1 only.

#### Compliance Inspections

The NDEP would require additional expenses related to compliance and enforcement at the retail establishment level. Specifically:

- Section 7 defines a “Health authority” as “officers and agents of the Division or officers and agents of the local boards of health”; and
- Section 14 requires the health authority to inspect each retail establishment located in this state at least once every year to determine compliance with the act. Inspectors shall be permitted to examine the records of retail establishments to obtain information pertaining to plastic bags purchased, received or provided to customers of the retailer. The inspectors will have citation authority if a retailer is found to be in violation.

Given these new compliance program requirements, the NDEP would propose to audit retail facilities for payment of fees with staffing as outlined below. The proposed Chief Compliance/Audit Investigator position is budgeted for a July 1, 2017 start date to initiate program development right away; the remaining positions are budgeted for an October 1, 2017 start date. The number of positions assumes that Washoe County Health District and Clark County Health District will perform the inspections in those areas and NDEP will be responsible for the remaining 15 counties. Eight (8) new vehicles are budgeted for the field staff, but could be leased from Fleet Services if determined to be more cost effective.

#### Expense for New Positions:

Chief Compliance/Audit Investigator (1 FTE)	Year 1 = \$120,271;	Year 2 = \$122,434
Compliance/Audit Investigator III (3 FTE)	Year 1 = \$257,436;	Year 2 = \$337,875
Compliance/Audit Investigator II (15 FTE)	Year 1 = \$1,259,400;	Year 2 = \$1,628,880
Total Year 1 =		\$1,637,107; Year 2 = \$2,089,189

Field Vehicles: compact sedan – total of 8 at \$17,797/each for a Year 1 expense = \$142,376

Revenue Collection System:

No Fiscal Impact

The NDEP has consulted with the Nevada Department of Taxation regarding revenue collection for Year 1 – Year 5 of the bill. As stated in Section 12.3(b), “in appropriate situations, [regulations for fee collection must] allow for the transmission of the money collected ... with the payment of applicable sales and use taxes.” The Department of Taxation has conveyed to NDEP that the retailers subject to the bill would all likely be subject to existing payment of sales and use tax returns. Likewise, the NDEP intends to partner with the Department of Taxation on the fee collection aspects of this bill.

However, if it is determined that there is an intent for the NDEP be the collecting agency, or there are retailers identified for inclusion in the program that do not pay sales and use taxes subject to the Department of Taxation, then the NDEP would need to create additional positions for collection of fees. Funding to build an IT system to support revenue collection and tracking would also be required.

*Total Fiscal Expenses:*

*Year 1 = \$294,943; Year 2 = \$290,570; Years 3-5 = \$871,710*

*Total Compliance Expenses:*

*Year 1 = \$1,779,483; Year 2 = \$2,089,189; Years 3-5 = \$6,267,567*

**Total Expenses:**

**Year 1 = \$2,074,426; Year 2 = \$2,379,759; Years 3-5 = \$7,139,277**