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FISCAL IMPACT REPORT

SPONSOR: Leavell DATE TYPED: 2/25/03 HB _____

SHORT TITLE: Provision for Above Ground Storage Tanks SB 353

ANALYST: Maloy

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI		NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
Energy, Minerals and Natural Resources Department

SUMMARY

Synopsis of Bill

Senate Bill 353 exempts certain above-ground storage tanks (containing petroleum or crude oil with standard conditions of temperature and pressure of sixty degrees Fahrenheit and fourteen and seven-tenth pounds per square inch absolute, and the volume of which is more than 90% around the surface of the ground) from requirements of the Hazardous Waste Act and the Ground Water Protection Act.

The exempted tanks include those associated with an emergency generator system, boat marinas, railroad facilities and tanks that store non-hazardous lubricant oils.

SB 353 also includes a definition of the term "combustible liquid," defining the phrase as a liquid having a flash point at or above one hundred degrees Fahrenheit and below two hundred degrees Fahrenheit.

Significant Issues

1. SB 353 exempts emergency generators, marinas, railroad facilities and tanks that store non-hazardous lubricant oils from the registration, permitting requirements and other requirements of the Hazardous Waste Act and the Ground Water Protection Act.
2. The Energy, Minerals and Natural Resources Department notes that tanks at marinas are located in close proximity to natural water resources, and that a spill would likely result in contact with the water. The Department asserts this situation exists at many state parks in New Mexico.

In instances where the tanks are located near natural water-ways, the tanks become subject to regulation by the federal government under the Spill Prevention Control and Countermeasure program. Unfortunately, however, according to the Department, inspectors intended to enforce these federal regulatory requirements are rarely in New Mexico.

3. Existing state law provides perhaps the only *active, present* regulatory program governing such tanks. This law requires tanks near natural water resources to employ automatic shut-off valves and secondary containment to contain spills before the product flows into any body of water. Under existing state law facilities may be required to upgrade hoses and pipes that run between the storage tanks on land and the marinas where boats are serviced. SB 353 eliminates this regulatory scheme, and may have the unintended consequence of exposing the state's waters to spills and leaks.

FISCAL IMPLICATIONS

There are no direct fiscal implications for the state. However, great secondary costs may be caused if there is a spill either on land alone, or in vicinity to a natural water resources.

TECHNICAL ISSUES

The phrase "combustible liquid" does not appear in either the Hazardous Waste Act or the Ground Water Protection Act. It does appear in NMSA 1978, Section 59A-52-16 (a statute pertaining to the State Fire Marshal) and the proposed definition is identical with the definition of combustible liquid provided in that statute.

SJM/sb