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FISCAL IMPACT REPORT

SPONSOR: Heaton DATE TYPED: 03/04/01 HB 305
 SHORT TITLE: Waste Isolation Pilot Plant Section SB _____
 ANALYST: Belmares

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			See Fiscal and Administrative Implications		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Department of Environment (DOE)

SUMMARY

Synopsis of Bill

House Bill 305 amends several sections of the Hazardous Waste Act (74-4-4.2 NMSA 1978). HB305 establishes a discrete Waste Isolation Pilot Plant (WIPP) Section within the Department of Environment's Hazardous Waste Bureau. HB305 establishes a fund in the state treasury into which all generator and permit fees collected from WIPP and appropriated monies would be deposited. Additionally, HB305 establishes specific activities for the WIPP Section relating to WIPP's hazardous waste permitting.

Significant Issues

The Department of Environment issues a permit to operate WIPP, a United State Department of Energy (DOE) hazardous and radioactive waste disposal facility. The Department of Environment currently operates a Permits Management Program within the Hazardous Waste Bureau that the department claims functions similarly to the WIPP Section described in HB305. This section is funded primarily through hazardous waste permit fees.

FISCAL IMPLICATIONS

House Bill 305 does not contain an appropriation. Under House Bill 305, funds that are currently deposited into the Hazardous Waste Permit Fund would be deposited into a newly created WIPP fund. According to the Department of Environment, the approximate amount deposited into the WIPP fund in FY02 would be approximately \$830.0.

Continuing Appropriations

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

The agency has estimated the need for an additional position to independently account for all fees and expenditures associated with WIPP permits. The Department of Environment has also expressed concerns regarding the required technical analyses specified in the bill and with potential limitations such specifications may place on the agency to address different types of hazardous waste permits and to adapt to changing technical requirements.

CONFLICT

HB305 exempts from the Environmental Improvement Board's purview the establishment of generator or permit fees for WIPP. However, HB305 does not specify an alternate entity to establish those fees for WIPP. The Environmental Improvement Act may need to be amended to reflect HB305. Additionally, the agency claims HB305 limits the Department of Environment's Cabinet Secretary flexibility in organizing the department as authorized by the Department of Environment Act 9-7A-6(B)(3) NMSA 1978.

TECHNICAL ISSUES

"Hazardous and Radioactive Bureau" should be replaced with "Hazardous Waste Bureau" throughout House Bill 305.

POSSIBLE QUESTIONS

A multi-year fiscal plan for the Hazardous Waste Permit Fund and a newly created WIPP fund may need to be completed by the Department of Environment to include an analysis of known and anticipated expenditures compared to known and anticipated revenues.

EB/prr:ar