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## FISCAL IMPACT REPORT

SPONSOR Griggs/Trujillo, CA ORIGINAL DATE 2/25/15  
LAST UPDATED 3/14/15 HB \_\_\_\_\_  
SHORT TITLE Hazardous Waste Emergency Fund Balance SB 594  
ANALYST Armstrong/Dunbar

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0-\$158,300.0	\$0-\$158,300.0	\$0-\$158,300.0	\$0-\$158,300.0	Nonrecurring	Hazardous Waste Emergency Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Senate Bill 632 and HB 518  
Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

Responses Received From  
New Mexico Department of Transportation (NMDOT)

### SUMMARY

#### Synopsis of Bill

Currently, the Hazardous Waste Emergency Fund may be used for cleanup of hazardous substance incidents, disposal of hazardous substances and necessary repairs to or replacement of state property, and the state's share of any response action taken under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). SB 594 adds the rehabilitation or improvement of the design and structural safety of transportation infrastructure throughout the State to the list of eligible uses of the Fund, provided that priority is given to rehabilitation of Waste Isolation Pilot Plant (WIPP) routes. The bill also sets a \$1.5 million minimum balance at which the Fund shall be maintained.

### FISCAL IMPLICATIONS

This bill expands the eligible uses of an existing fund and provides for continuing appropriations which could be significant due to the penalties assessed by NMED against both Los Alamos National Laboratory (LANL) and the Waste Isolation Pilot Plant (WIPP) in December 2014. These fines totaled \$54.3 million and NMED is considering assessing another \$104 million in fines for "violations for which there is no dispute of fact" according to the agency's secretary. It is unknown when and to what extent these fines will be paid.

The LFC has concerns with including continuing appropriation language in the statutory provisions creating funds, as earmarking reduces the ability of the legislature to establish spending priorities. Considering the anticipated windfall from the LANL and WIPP fines and the fact that the Fund may be disbursed upon a request by NMED approved by DFA, the bill significantly impacts legislative authority over the Fund.

NMDOT analysis suggested a positive fiscal impact as the new funds available for maintenance of the WIPP transportation route would reduce draws from the state road fund to perform work related to WIPP transportation routes. However, the agency did not provide a list of specific projects and costs, so the direct fiscal impact of HB 518 is unknown. Currently, NMDOT maintains 2,595 lane-miles of interstate, National Highway System and New Mexico highways classified as WIPP routes (see map below).

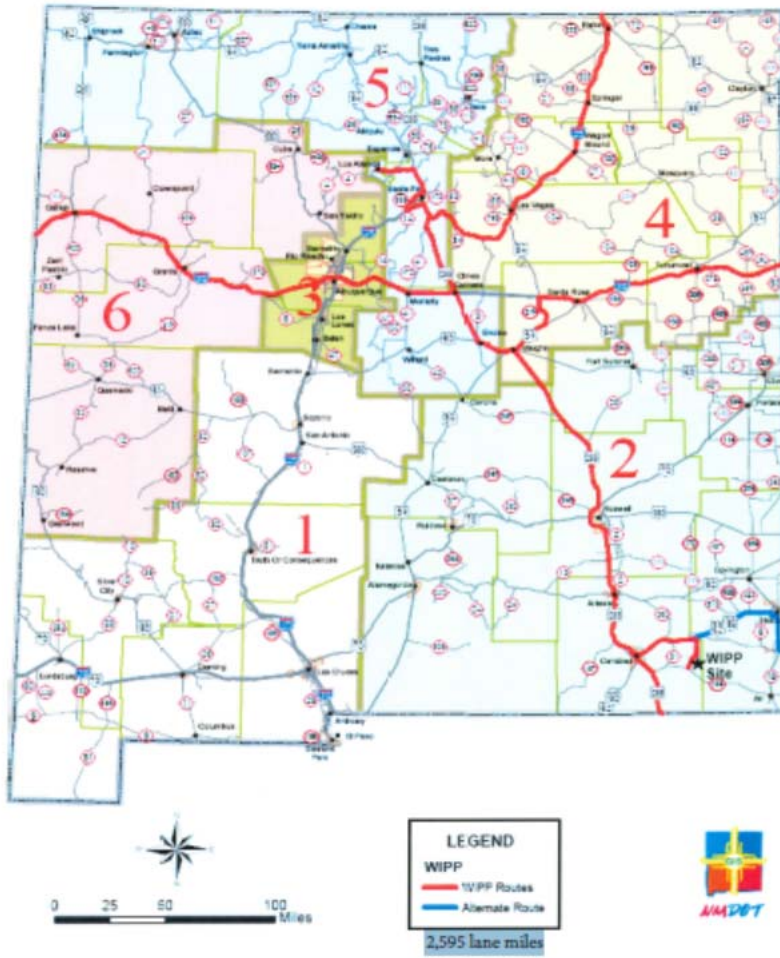
### **SIGNIFICANT ISSUES**

It is unclear if this bill aligns with the purpose of the Hazardous Waste Emergency Fund as WIPP infrastructure projects are considerably different than the existing eligible uses which include cleanup of hazardous substance incidents, disposal of hazardous substances and necessary repairs to or replacement of state property, and the state's share of any response action taken under CERCLA.

### **RELATIONSHIP**

Relates to Senate Bill 632 and HB 518 create a “safe transport of hazardous materials fund” and divert all penalties assessed between December 1, 2014 and December 31, 2015, which would include the WIPP and LANL fines, to that fund.

### WIPP Routes



BD/bb/jc