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F I S C A L I M P A C T R E P O R T

SPONSOR: Park DATE TYPED: 3/5/03 HB HJR 32

SHORT TITLE: Permit Carrying of Concealed Weapons SB _____

ANALYST: Chavez

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
NFI	NFI		\$32.0	Non-Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 23, HB 916

SOURCES OF INFORMATION

Attorney General's Office (AG)
Administrative Office of the Courts (AOC)
LFC Files

SUMMARY

Synopsis of Bill

House Joint Resolution 32 proposes to amend Article 2, Section 6 of the Constitution of New Mexico which states: "No law shall abridge the right of the citizens to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes . . ." House Joint Resolution 32 removes the language which states, "*but nothing herein shall be held to permit the carrying of concealed weapons.*"

Significant Issues

It is indicated by the Attorney General's Office that all bills pertaining to concealed weapons raise the question of how to interpret Article 2, Section 6 of the New Mexico Constitution. The deletion of this language would be open to interpretation among the opponents and proponents of concealed weapons. Opponents of concealed weapons legislation generally claim this language prohibits such legislation. Proponents of such legislation generally claim this language does not prohibit legislation, but instead informs the public that it does not have a constitutional right to a

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concealed weapon. Thus, the legislature can take away this right.

The current concealed weapons law, § 29-18-1 to 29-18-12 NMSA, 1978 was recently challenged by the case of Baca v. NM Dept. of Public Safety, 132 NM 282, 47 P.3d 441 (2002). The court ruled on the narrower ground of local regulation and refrained from deciding the broader issue addressed in the petition. The broader issue presented the question of whether Article 2, Section 6 of the New Mexico Constitution prohibits the carrying of concealed weapons and restricts the Legislature's ability to enact laws permitting the carrying of concealed handguns.

FISCAL IMPLICATIONS

The bill does not contain an appropriation. However, the AOC indicates that any court challenge to any new concealed carry legislation would require the expenditure of judicial and administrative resources.

An estimated non-recurring cost to the general fund of \$32.0 is expected because of the cost to the Secretary of State for advertising and printing to place an item on the ballot. This non-recurring cost will likely be realized in FY05 since the next general election is in November 2004 unless a special election is called for this purpose.

RELATIONSHIP

HJR 32 relates to SB 23 and HB 916 identical legislation introducing the Concealed Handgun Carry Act.

The New Mexico Supreme Court in the case of Baca v. NM Dept. of Public Safety, 132 NM 282, 47 P.3d 441 (2002) issued a court order that “*the Legislature’s delegation of authority to local governments to prohibit the carrying of concealed weapons in Section 29-18-11 (D) violates the constitutional proscription against municipal and county regulation of an incident of the right to bear arms in Article II, Section 6 of the New Mexico Constitution.*” *Id.* The court concluded that Section 29-18-11 (D) was not severable from the remainder of the Concealed Handgun Carry Act and that the Act as a whole was therefore unconstitutional. See *id.* It is noted by the Attorney General that SB 23 and HB 916 repeals the current unenforceable, statutory provisions replacing them with nearly identical language.

FC/njw