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FISCAL IMPACT REPORT

SPONSOR: Jennings DATE TYPED: 03/08/03 HB _____

SHORT TITLE: Exempt Prescribed Fires From Air Quality Act SB 711

ANALYST: Valenzuela

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
 Department of Environment
 Energy, Minerals and Natural Resources Department

SUMMARY

Synopsis of Bill

Senate Bill 711 amends the Air Quality Control Act by exempting prescribed fires conducted by the State Forester (in the Energy, Minerals and Natural Resources Department) from the Act. This would exempt such prescribed fires from any present or future regulations promulgated by the Environmental Improvement Board or the Albuquerque/Bernalillo County Air Quality Control Board pursuant to the Air Quality Control Act.

Significant Issues

Pollutant emissions from prescribed fires can create significant health hazards, and are not exempt from the federal Clean Air Act. Under the federal Act, the State Implementation Plan (SIP) must include regulations to ensure that federal ambient air quality standards are met. By removing prescribed fires conducted by the State Forester from regulation under the Air Quality Control Act, SB 711 will jeopardize the state's ability to ensure that federal air quality standards are met. Since the state statute and current regulation governing such prescribed fires is part of the State Implementation Plan, any change in either will be subject to review and approval by the U.S. Environmental Protection Agency (USEPA). If USEPA determines that the SIP is inadequate, federal sanctions could result.

The New Mexico Air Quality Bureau currently regulates the prescribed fire through the open burning regulation (20 NMAC 2.60) and a memorandum of understanding (MOU) with the Federal Land Managers and the State Forestry Division. The bureau is working with the Federal Land Managers, State Forestry Division and other stakeholders to develop a smoke management plan for the state as required under the newly adopted federal regional haze rule. Among other things, the smoke management plan will replace the Open Burning regulation and MOU to regulate prescribed fire on public lands and assure that federal ambient air quality standards and visibility requirements are being met.

In NMSA 1978, Section 68-2-8, the Forestry Division has discretion to develop methods for the prescribed use of fires on rural lands and within rural communities but not on private, public or federal lands. As such, decisions to ignite and manage prescribed fires are not generally made by Forestry Division.

FISCAL IMPLICATIONS

Senate Bill 711 does not contain an appropriation. Its enactment is not expected to have a fiscal impact on a state agency.

MFV/sb