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## FISCAL IMPACT REPORT

ORIGINAL DATE 3/2/11

SPONSOR     Keller     LAST UPDATED                      HB                     

SHORT TITLE     Concealed Guns in State Parks     SB     542    

ANALYST     Hoffmann    

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates part of HB136

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

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	n/a	n/a	n/a			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

Energy, Minerals and Natural Resources Department (ENMRD)

Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 542 would allow a person in possession of a valid concealed handgun license to carry a loaded concealed handgun in a state park or recreation area operated by the State Parks Division of the Energy, Minerals and Natural Resources Department.

### FISCAL IMPLICATIONS

SB542 does not make any appropriations.

## **SIGNIFICANT ISSUES**

The State Parks Division of ENMRD notes that rule 19.5.2.20 NMAC currently states that visitors shall not possess firearms, including concealed firearms, with a cartridge in any portion of the mechanism or discharge firearms, including concealed firearms, except during designated hunting seasons or in authorized areas. No such activity is allowed within 300 yards of a developed park area or occupied campsite. Subsection A of 19.5.2.20 NMAC does not apply to on duty law enforcement officials. 19.5.2 NMAC's objective is to provide standards for visitor use of the New Mexico state parks system in a manner that promotes public health, safety, and welfare and preserves park facilities and the environment. SB 542 does not address whether a person carrying a loaded concealed handgun is allowed to discharge the firearm in a state park.

The AGO remarks as follows. This bill expands the rights of handgun owners with a valid concealed handgun license to carry loaded concealed handguns in state parks. A similar expansion was adopted by the legislature in 2010. Under NMSA 30-7-3, it a fourth degree felony for a person to carry a loaded or unloaded firearm in a liquor establishment. However, in 2010 SB 40 changed New Mexico law to permit a person carrying a concealed handgun who is in possession of a valid concealed handgun license pursuant to the Concealed Handgun Carry Act to carry a gun on the premises of a restaurant with a beer and wine license (unless the restaurant posts a sign prohibiting firearms or the owner/manager verbally instructs the person that firearms are not permitted in the restaurant.)

The Department of Public Safety reports SB542 has no impact to the department.

## **PERFORMANCE IMPLICATIONS**

ENMRD states that State Parks Division officers will verify within the course of their duties that a park visitor carrying a concealed handgun is licensed pursuant to the Concealed Handgun Carry Act.

## **ADMINISTRATIVE IMPLICATIONS**

SB542 would require the State Parks Division to amend its existing rule to reflect the statutory change.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB136 would allow concealed firearms in schools, universities, buses, all licensed liquor establishments, state parks and recreation areas, and carrying more than one firearm at a time.

## **TECHNICAL ISSUES**

The State Parks Division of the EMNRD advises that the possession of an unloaded concealed carry firearm, by a person licensed to do so, is currently allowed in a state park.

## **OTHER SUBSTANTIVE ISSUES**

The AGO reminds it is important to avoid confusion about the circumstances in which it is legal to carry a firearm, loaded or unloaded, concealed or not concealed, in a situation involving

alcohol consumption while at a state park. Section 30-7-4 NMSA 1978, negligent use of a deadly weapon, prohibits carrying a firearm while under the influence of an intoxicant or narcotic.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

According to the State Parks Division, unless 19.5.2.20 NMAC is amended, state park visitors will continue to be prohibited from possessing firearms, including concealed firearms, with a cartridge in any portion of the mechanism or discharge firearms, including concealed firearms, except during designated hunting seasons or in authorized areas.

JCH/bym