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FISCAL IMPACT REPORT

SPONSOR Griego **ORIGINAL DATE** 01/24/14
LAST UPDATED 02/11/14 **HB** _____

SHORT TITLE Add Fireworks that May Be Banned **SB** 94/aSCORC

ANALYST McCoy/Weber

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Game and Fish (DGF)

Energy, Minerals and Natural Resources Department (EMNRD)

State Land Office (SLO)

Office of the State Engineer (OSE)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment for Senate Bill 94 inserts “exceptional” in front of “extreme” on page 1, line 18. The amendment adds exceptional to the list of drought conditions, which also include extreme and severe, in the title of the section.

Synopsis of Original Bill

Senate Bill 94 amends Section 60-2C-8.1 NMSA 1978 of the Fireworks Licensing and Safety Act to add the word “exceptional” to the adjectives preceding “drought conditions” that will give rise to the conditions under which a governing body of a municipality or county (governing body) may hold a hearing to determine whether fireworks restrictions should be imposed.

This bill also replaces “missile type rockets, helicopters, aerial spinners, stick type rockets” with the words “aerial devices.”

The governing body would now base its decision on the United States drought monitor and southwest coordination center rather than the national weather service and United States Forest

service.

Additional language gives the Forestry Division of EMNRD authority, if requested by the appropriate local governing body, to: adopt and enforce emergency rules within the municipality or county that completely or partially ban or restrict fireworks, modify or rescind rules if conditions warrant, request any adjacent Indian nations impose same or similar rules, reissue and enforce emergency rules after the expiration of the initial thirty days if conditions warrant. In addition, governor must provide written approval of the final rules prior to the rules becoming effective and, if the governor disapproves the final rules, the forestry division shall not adopt the rules;

The bill contains an emergency clause.

FISCAL IMPLICATIONS

No direct fiscal implications were identified. However, if one fire is avoided the savings could range in the millions.

SIGNIFICANT ISSUES

EMNRD states it is critical to discuss the sale of fireworks in the timeline of New Mexico's wildfire season. The \$22 million dollar, 2011 fire season is a very good example of a year when fires started very early in the year, a serious fire in Silver City began in February, and the season never let up. The state experienced devastating wildfires in southeastern New Mexico then eastern and western New Mexico, followed by extremely difficult fires in northern New Mexico. The state's firefighting resources were stretched in every direction, equipment was taxed to the maximum and fire fighters were literally moving around the state from one fire to the next. In 2012, New Mexico experienced the state's largest fire and the state's most destructive fire. In this type of scenario when almost every resource has been deployed for months the sale of fireworks could not come at a worse time. The state's firefighting resources may need to respond to fight fires started by fireworks at the exact moment when they are assigned to another fire and have already been taxed to the maximum. The ability to reduce that risk by limiting the sale and use of fireworks is critical to addressing a scenario when New Mexico is experiencing a dangerous wildfire season and any fire start could be potentially devastating to life and property.

According to data provided by New Mexico fire departments through the National Fire Incident Reporting System (NFIRS), New Mexico had a total of 294 fires between 2009 and 2013 that were caused by fireworks. Of these, 245 were wild land fires and 49 were structure or other types of fires. Of the wild land fires, 207 were during the height of New Mexico's fire season (May to mid-July). In 2011, when more than 75% of the state was in severe, extreme or exceptional drought conditions during fire season there were 66 wild land fires caused by fireworks.

According to the National Fire Protection Association, fireworks caused an estimated 17,800 reported fires in 2011, including 1,200 structure fires, 400 vehicle fires and 16,300 other fires, of which includes wild land. These fires resulted in 40 civilian injuries and \$32 million in direct property damage. On Independence Day, fireworks account for 2 out 5 reported fires, more than any other cause of fire.

TECHNICAL ISSUES

SLO notes that in general, municipal and county land use regulations do not apply to state land. *See City of Santa Fe v. Armijo*, 96 N.M. 663, 634 P.2d 685 (1981). It is unclear whether what is intended in authorizing EMNRD to “adopt and enforce emergency rules within the municipality or county,” and specifically whether this authorizes EMNRD to adopt and enforce emergency rules with respect to the sale and/or use of fireworks on state lands located within a municipality or county.

MW/ds