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FISCAL IMPACT REPORT

SPONSOR: Regensberg DATE TYPED: 02/27/03 HB 546
 SHORT TITLE: Nonresident Hunting License Availability SB _____
 ANALYST: Valenzuela

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	(\$925.0)	(\$925.0)	Recurring	Game Protection Fund
		See Narrative		

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

- *Report of the Legislative Finance Committee to the Forty-sixth Legislature, First Session, January 2003 for Fiscal Year 2003 – 2004, pp. 390 – 401.*

Department of Game and Fish

SUMMARY

Synopsis of Bill

House Bill 546 amends the license quota percentage of resident and non-resident hunting licenses that may be issued by special drawing (public draw hunts). The bill would allow residents to be eligible to receive an additional 7 percent of special drawing licenses. These licenses can currently be awarded at 78 percent for residents and 22 percent for non-residents. However, this bill amends that licenses shall be issued at 85 percent for residents and 15 percent for non-residents (10 percent for non-residents that will be guided, and 5 percent for non-residents that are not required to be guided).

Significant Issues

If enacted, House Bill 546 could have several financial impacts on the department and the sport hunting industry.

Cash Balances of Game Protection Fund. The department estimates that HB 546 will decrease its revenues into the game protection fund by \$925.0. This decrease could prompt the department to increase licenses fees for resident hunters because of several obligations against the game pro-

tection fund cash balance, which is decreasing.

For the past few years, cash balances in the game protection fund were substantial, providing opportunities for the department to accomplish several projects, such as construction of its headquarters building, management of whirling disease and construction of fish hatcheries, and purchase of Eagle Nest Lake. Though estimates show the cash balances remaining strong in the range of \$14 million through FY03 and into FY04, multiple liabilities against the fund exist.

These items, taken together, could exhaust the remaining cash in the fund. The General Appropriations Act of 2003, as drafted, contains an appropriation for \$1,077.4 from the fund to complete cleanup costs at Terrero Mine (see Other Substantive Issues for discussion). Additionally, in the Governor's Budget in Brief, \$6.2 million from the fund has been earmarked to complete any projects related to rehabilitation of the dam at Eagle Nest Lake.

The drought, too, has had an impact: revenue from license sales dropped more than \$800.0 for the 2002 summer as compared to 2001. The agency response will be to seek a fee increase in the next legislative session to ensure its cash balance is sufficient to cover its needs. Generally, the department requires a \$6 million reserve to cover its operating costs during low revenue generating months.

Impact to Rural Communities and Hunting Industry. New Mexico State University completed a study of the direct economic impact of guided sport hunting from non-resident hunters. The study shows the economic impact of \$127 million, annually, largely concentrated in rural areas of New Mexico. The Outfitters and Guide industry reports that enactment of this bill could impact them by \$21 million, which does not include the impact to non-guided, non-resident hunting activity.

Industry points out that non-resident hunters, due to higher license fees paid, contribute a higher portion of revenue stream to the department than do resident hunters. For example, in license year 2001 – 2002, sales of special hunting licenses (those sold through the lottery draw system) generated a total of \$4,524,000.00. Non resident hunters, both guided and non guided, accounted for \$3,155,000.00 of this total. This \$3.1 million came from 6,320 non residents. The remaining \$1,369,000 was generated by licenses sold to 26,350 resident hunters.

FISCAL IMPLICATIONS

House Bill 546 does not contain an appropriation. Enactment would decrease hunting license revenues by \$925.0, according to DGF.

TECHNICAL ISSUES

DGF reports that there is the potential for litigation as former Director Jerry Marrachini, et al., unsuccessfully tried to lift the injunction on applying license quotas on bighorn, oryx and ibex (*Terk v. Marrachini*). This issue was brought before the court in 1997 after the passage of the current drawing law (17-3-16 NMSA 1978) and it was asserted that the law on which the injunction was based had changed. However the court still rejected this based on the Equal Protection Clause. The Department does not apply any license quota to bighorn sheep, oryx or ibex because of this ruling. The United States Court of Appeals of the Ninth Circuit Court recently upheld the lower court's decision that Arizona's quota law was improper (10% of some special licenses

were allocated for non-residents). The court did so on the strict scrutiny of the Commerce Clause. This suit was initially brought by those seeking greater non-resident hunting opportunity. There is a possibility that this same challenge could be raised if this bill is successful.

OTHER SUBSTANTIVE ISSUES

Multimillion Dollar Liability at Terrero Mine. Reclamation of the Superfund-like Terrero mine waste site or “mine” near Pecos, is a shared responsibility of the state and the mining company, Phelps Dodge Corp. In 1992, the state Department of Environment, Office of the Natural Resource Trustee, DGF and State Highway and Transportation Division (SHTD) and Cyprus Amax Mining Company signed an administrative order on consent to prevent the U.S. Environmental Protection Agency (EPA) from listing the site on the national priorities list. (Phelps Dodge purchased Cyprus Amax in 1999 and assumed the reclamation liability.) The share of the responsibility is detailed below by each of the five distinct sites:

<u>Site Name</u>	<u>Estimated Cost</u>	<u>State Share</u>	<u>Phelps Dodge Share</u>
Pecos Mine	\$ 17,500.0	20%	80%
El Molino mill site	20,900.0	20%	80%
Sections of Highway 63	463.0	100%	-
Lisboa Springs Fish Hatchery	895.0	100%	-
Campgrounds in the Pecos River valley	200.0	100%	-

Because the property, purchased in 1950, is owned by the State Game Commission, the state is liable for 20 percent of the project cost at the mine and mill site. The commission is wholly liable for reclamation of the remaining three units because DGF and SHTD used mine waste as fill material for construction of these three sites. Acidic seepage from the mine waste, carried by rain and snow-melt exceeds water quality standards for heavy metals. This seepage was responsible for fish kills in the Pecos River and Lisboa Springs Fish Hatchery.

In 1993, the Legislature appropriated \$5,180.0 (\$3,180.0 from the corrective action fund and \$2 million from the state road fund) to cover the state’s 20 percent liability. The project has not been completed and requires additional funding. The executive will seek an additional \$2,800.0 of state funding to complete the project. DGF has not contributed to the reclamation cost despite being a responsible party.

MFV/yr