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FISCAL IMPACT REPORT

ORIGINAL DATE 02/14/13

SPONSOR HF1 LAST UPDATED 03/12/13 HB CS/373/HFIS

SHORT TITLE Local Gov't Fireworks Restrictions SB _____

ANALYST McCoy

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)
 Department of Health (DOH)
 State Land Office (SLO)

SUMMARY

Synopsis of House Floor Substitute

The House Floor substitute for the House Energy and Natural Resources Committee (HENRC) substitute for House Bill 373 (HB 373) amends the Fireworks Licensing and Safety Act (Fireworks Act), Section 60-2C-8.1 NMSA 1978. The House Floor substitute changes the ban on the sale and use of missile-type rockets, helicopters, aerial spinners, stick-type rockets to a ban on the sale and use aerial devices and ground audible devices.

FISCAL IMPLICATIONS

No Fiscal Impact.

SIGNIFICANT ISSUES

According to the EMNRD, the House Floor substitute for HB 373 would include all aerial devices as defined in Section 60-2C-7 NMSA 1978 that includes aerial shell kit-reloadable tubes, aerial spinners, helicopters, mines, missile-type rockets, multiple tube devices, roman candles, shells and stick-type rockets.

The House Floor substitute differs considerably from the original bill and the House Energy and Natural Resources Committee substitute.

The House Floor substitute removes the use of the National Fire Danger Rating System (NFDRS) as the measure for determining current fire danger conditions. Instead, the House Floor substitute bases fire danger on current drought indices published by the National Weather Service and any other relevant information supplied by the U.S. Forest Service. According to the EMNRD, drought indices are not an adequate or appropriate representation of fire danger or fire risk. The NFDRS incorporates a drought component as well as weather conditions, fuel types (timber, grass, shrubs, etc.), fuel ignitability and seasonal attributes. The EMNRD notes, the NFDRS responds more quickly than a drought index would to changing conditions, increasing the possibility that fireworks restrictions can be rescinded in a timelier manner.

The HENRC substitute for HB 373 required that if local governments hold a hearing and determine that high, very high, or extreme fire danger exists that they shall ban the sale and use of aerial and ground audible fireworks. If determined that these conditions existed, local governments could issue a proclamation to ban the sale and use of fireworks. If a proclamation is not issued within 20 days prior to the holiday, the sale and use of aerial devices and ground audible devices cannot be imposed.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The bill duplicates HB 464.

OTHER SUBSTANTIVE ISSUES

Current language in the Fireworks Act and the House Floor substitute uses drought conditions as the trigger local governments use to determine if fireworks restrictions are implemented. The EMNRD notes, determining the severity of fire danger from drought indices is typically not as precise as the use of an adjective rating system like the NFDRS (i.e. High, Very High, Extreme, etc). The EMNRD notes, the often mentioned Palmer drought index is solely based on the amount of moisture in the top layer of soil, accounting for none of the vegetative or organic material. Drought indices respond slowly to changing weather and climatic and can take several months to drop from extreme to a level that would allow the sale and use of fireworks. Based on more current weather and climate conditions, the NFDRS ratings can change more quickly than drought indices. According to the EMNRD, this rating system is a more appropriate trigger than drought indices for emergency actions to prevent wildfires. Additionally, the EMNRD notes, it is important that the Forestry Division has the ability to restrict the sale, and use of fireworks within a 20 day period of the holiday on a regional level when conditions warrant. The House Floor substitute for HB 373 does not include that authority.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Counties and municipalities will continue to restrict a limited number of fireworks pursuant to the Fireworks Licensing and Safety Act, Section 60-2C-8.1 NMSA 1978.