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FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/13
 SPONSOR Ezzell LAST UPDATED 02/28/13 HM 21
 SHORT TITLE Preserve Prairie Chicken to Oppose Listing SB _____
 ANALYST Cerny

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI					

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Game and Fish (DGF)

SUMMARY

Synopsis of Bill

House Memorial 21 (HM 21) resolves that the New Mexico Congressional Delegation, governor, Commissioner of Public Lands, the director of the New Mexico office of the federal Bureau of Land Management and the director of the Department of Game and Fish support local and private efforts to preserve and protect the lesser prairie chicken and oppose its listing under the federal Endangered Species Act of 1973 (ESA).

HM 21 recognizes the work of the New Mexico Department of Game and Fish with the energy and ranching industries and the states of Colorado, Kansas, Oklahoma, and Texas to conserve the lesser prairie-chicken across the bird's entire range. The five states are finalizing a conservation plan to ensure the long-term viability of the lesser prairie chicken.

SIGNIFICANT ISSUES

The lesser prairie-chicken is a species of prairie grouse commonly recognized for its feathered feet and stout build and brilliant courtship displays by the males. The lesser prairie-chicken occupies a five-state range that includes Texas, Oklahoma, Kansas, Colorado and New Mexico. The species needs large tracts of relatively intact native grasslands and prairies to thrive. It is estimated that as few as 35,000 of the species remain today. Large population declines have

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occurred since 1800s, primarily due to droughts, conversion of rangeland to cropland, overgrazing by livestock, and chemical control on rangelands.

On December 12, 2012 the U.S Fish and Wildlife Service (USFWS) published a proposal to list the lesser prairie-chicken as a threatened species under the ESA and opened a 90-day public comment period. The Service is requesting information from the public and scientific community that will assist them in making a final listing determination. The final determination must be published by September 30, 2013. The Service is holding four public hearings in February, 2013, including one in Roswell on February 12.

Despite its being a high-priority species for the USFWS, the lesser prairie chicken is proposed for a listing as a threatened, rather than endangered species under the ESA. The proposal to list it as “threatened” rather than “endangered” allows USFWS more flexibility in crafting conservation measures for the animal. If the lesser prairie chicken is listed as threatened, the USFWS may prepare a special rule known as a 4(d) rule that does not necessarily include all of the restrictions included in section 9 of the ESA.

DGF analysis states that significant resources have allocated over the past decade toward working on voluntary conservation of the lesser prairie chicken in eastern New Mexico. Agreements are in place with BLM, State Land Office, the oil and gas and ranching industries and the New Mexico Department of Game and Fish to develop long-term conservation practices to ensure the viability of this species and its habitats.

DGF analysis states that “A listing decision under the endangered species act (ESA) would threaten the successful partnerships that have been built; it would severely affect any future conservation of habitat and the mitigation of threats; and it would create obstacles to continued voluntary conservation efforts from the private sector, by eliminating incentives to do so.” Further, DGF takes the position that: “Listing the species as threatened or endangered would create obstacles to existing, successful conservation measures for this species and would have significant negative impacts to the economy of eastern New Mexico.”

On the other hand, USFWS states: “The USFWS, state wildlife agencies, energy companies (including some members of the oil and gas industry and other alternative energy enterprises) and private landowners are currently involved in a number of efforts to conserve the lesser prairie-chicken through Candidate Conservation Agreements that provide landowners and energy developers the opportunity to implement conservation practices along with assurances that, if a species is listed, they can continue to manage as outlined in the agreements with no additional requirements.”

OTHER SUBSTANTIVE ISSUES

For the past eleven years, Milnesand, New Mexico has hosted the Annual High Plains Lesser Prairie Chicken Festival each spring. Festival sponsors include the New Mexico Department of Game and Fish, the Nature Conservancy of New Mexico, the Grasslands Charitable Foundation, and the Community of Milnesand. The Festival attracts a hundred nature enthusiasts from around the country who are eager to see the birds’ colorful and sometimes comical mating rituals on the prairie grassland of southeastern New Mexico.

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An article in State Impact reports that in Texas, “While some conservationists may have preferred a proposal for the more stringent ‘endangered’ listing, many politicians as well as business interests had lobbied against that move.” It also states that “Conservative Oklahoma Senator James Inhofe called the listing ‘very good news,’ according to News OK.” (Reference: <http://stateimpact.npr.org/texas/2012/11/30/lesser-prairie-chicken-proposed-for-threatened-species-listing/>)

The Lesser Prairie Chicken is just one of two hundred fifty-one species the Service has agreed to propose as threatened or endangered under the terms of a legal settlement reached last year between the Service and conservation groups.

A summary of state-by-state activities from the Audubon Society may be found here: <http://policy.audubon.org/lesser-prairie-chicken-conservation>

CC/svb:blm