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FISCAL IMPACT REPORT

ORIGINAL DATE 02/13/13

SPONSOR McSorely LAST UPDATED _____ HB _____

SHORT TITLE Study Moving Liquor License Enforcement SJM 33

ANALYST Pahl

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY13 | FY14 | FY15 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------|-------|-------|----------------------|------------------------------|------------------|
| Total | \$0.0 | \$0.0 | \$0.0 | \$0.0 | N/A | N/A |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Department of Public Safety (DPS)

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Joint Memorial 33 (SJM 33) calls for a study by the Department of Public Safety (DPS), counties and municipalities in New Mexico to determine the possibility of transferring liquor license enforcement activities from the Alcohol & Gaming Division (AGD) of the Regulation and Licensing Department (RLD) to individual counties and municipalities. Findings would be reported to the appropriate legislative interim committee by October 2013.

FISCAL IMPLICATIONS

There is no appropriation for the costs of completing the study. According to the RLD most studies cost between \$10,000 and \$30,000 to conduct.

SIGNIFICANT ISSUES

The RLD states the current system provides centralized oversight and prosecution of administrative violations of the Liquor Control Act, with the goal of uniformity in handing down penalties and avoiding arbitrary and capricious fines and penalties. Further, the DPS noted that the current statewide structure allows for consistency and effectiveness.

According to the RLD, currently the AGD handles administrative violations against liquor license holders and servers. The AGD only processes civil/administrative violations of the Liquor Control Act. Criminal citations against servers are already handled by the local jurisdictions. The criminal penalties are assessed against the server only.

According to the RLD, there are approximately 130 local option districts. Should a transfer of responsibilities to municipal and county governments take place, the outcomes of enforcement actions would be uncertain, uneven and possibly delayed. Each local government would need peace officers specifically dedicated to enforcement of the Liquor Control Act. While the Joint Memorial refers to municipal and county governments having liquor control laws equivalent to or more stringent than the State's Liquor Control Act, there are, in fact, no laws that govern the sale and service of alcohol except the Liquor Control Act. However, the Liquor Control Act does *not* apply to the sale and service of alcohol on reservation lands.

TECHNICAL ISSUES

The Departments of Health (DOH) and the DPS recognized that SJM 33 attributes powers solely to the AGD (i.e., “administrative enforcement of laws relating to liquor licenses”) that are at least partly shared with Special Investigations Division (SID) of the DPS (as the designated lead agency for the enforcement of New Mexico's Liquor Control Act). It is unclear, since unspecified, whether responsibility for some of the aspects of liquor control law enforcement that SJM 33 seeks to address reside with the SID, instead of solely with the AGD as asserted. The DPS explained that the SID has primary enforcement responsibility, while the AGD administers and regulates the Liquor Control Act.

OTHER SUBSTANTIVE ISSUES

The DOH noted large disparities in the burden of alcohol-related problems exist in New Mexico. For example, in 2007-2011, average annual alcohol-related death rates in Rio Arriba and McKinley counties were more than twice the high New Mexico rate, and roughly four times the U.S. rate. As SJM 33 asserts, the burden of alcohol-related problems is particularly heavy “in many Native American communities in New Mexico”. American Indians in New Mexico have a roughly threefold higher rate of alcohol-related death than the ethnic group with the lowest rate.

AMENDMENTS

While the memorial refers to the AGD, it is recommended that SJM 33 be worded so the SID of the DPS is included as an entity that the study focuses on transferring enforcement from.

MMP/svb