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## FISCAL IMPACT REPORT

SPONSOR: SCORC DATE TYPED: 03/05/01 HB \_\_\_\_\_  
 SHORT TITLE: Transfer State Fire Marshal's Office SB CS120/aSFl#1  
 ANALYST: Trujillo

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB730 and SB3

### SOURCES OF INFORMATION

LFC Files  
 Department of Public Safety (DPS)  
 Public Regulation Commission (PRC)  
 Energy Minerals and Natural Resources Department (EMNRD)

### SUMMARY

#### Synopsis of SFL# 1 Amendment

The Senate Floor Amendment No. 1 to SB120/SCORCS establishes the Fire Protection Division within DPS and makes technical adjustments to reflect the proper wording.

#### Synopsis of Substitute Bill

The Senate Corporations and Transportation Substitute for Senate Bill 120 transfers the State Fire Marshal and the Firefighter Training Academy (SFMFTA) to DPS. It would also transfer personnel, appropriations, money, records, furniture, equipment and other property, contractual obligations and statutory references.

There is no specific appropriation, but it includes all appropriations intended for the SFMFTA as part of the Public Regulation Commission (PRC). In addition, a transfer of existing funds from the PRC (Fire Protection Fund monies) included in the substitute bill. This funding currently supports the SFMFTA would be transferred to the DPS to continue that support.

#### Significant Issues

Following are highlights of the bill:

The bill would create the position of State Fire Marshal as the bureau chief of the Fire Protection Bureau of the Technical and Emergency Support Division (TESD) of DPS.

The bill would also create a Fire Board, appointed by the Governor, comprised of seven members, who would serve four-year terms. The Board would approve fire codes and standards to be enforced by the Fire Protection Bureau, and coordinate with the Construction Industries Division of the Regulation and Licensing Department to ensure that state building and fire codes are compatible and consistent with each other.

The bill includes a transfer of \$300,000 from the Fire Protective Fund of the PRC to support the transfer of the SFMFTA to DPS.

DPS questions at what organizational level would the fire marshal be within DPS? For performance based budgeting purposes, which program will they fit into?

### **PERFORMANCE IMPLICATIONS**

DPS reports the performance of the agency should become more efficient. The Fire Marshal's Office is intricately involved in many public safety functions. They currently have personnel working in the areas of emergency response, HAZMAT, preparedness and mitigation. They blend in perfectly with the functions carried out by TESSD's Office of Emergency Management. The hazardous material functions of the Fire Marshal's Office relate closely with both emergency management and State Police Emergency Response Officer responsibilities toward hazardous material preparedness and response. Having the Fire Marshal's Office within DPS will facilitate coordination of critical public safety issues. DPS operates the State Law Enforcement Academy, which will coordinate and create new efficiencies with the State Fire Academy.

Moving the State Fire Marshals Bureau in to DPS will improve the department's ability to respond to fire or hazardous materials emergency situations. The New Mexico State Police are statutorily responsible for managing hazardous materials spill scenes. Fire Departments are equipped and trained to deal with and operate in hazardous materials environments. Both agencies will benefit through joint training and hazardous materials mitigation efforts.

The State Fire Academy is also to be moved under DPS. This will benefit both agencies through joint effort training at a central location. Training efforts will be more efficient with use of joint training personnel in areas of hazardous materials, incident command, emergency response, and resource management.

The Motor Transportation Division (MTD) is responsible for commercial vehicle enforcement throughout the State. This includes all hazardous materials shipped through or in the state, including Waste Isolation Pilot Project nuclear waste. Many commercial vehicle accidents require a hazardous materials response and clean up. The incorporation into DPS will aid in MTD's response capability through joint training with the State Police and State Fire Academy personnel.

The joining of these two entities will improve safety for citizens of New Mexico.

### **FISCAL IMPLICATIONS**

The bill transfers the appropriation from the Fire Protection Fund that has traditionally supported the Fire Marshal to DPS. This annual amount is estimated at \$300.0. DPS reports the result of this transfer will not effect federal appropriations.

According to PRC, the transfer of the State Fire Marshal's Office and its revenue would result in a \$300.0 reduction to PRC administrative services budget. The revenue is from the Fire Protection Fund and is annually included in the General Appropriation Act. This transfer would effect the PRC's ability to fully pay rent and operating costs. The PRC reports the General Appropriation Act should be amended to address this. (See Technical Issues).

### **ADMINISTRATIVE IMPLICATIONS**

DPS reports no impact if the identified transfer is allowed. However, if it is not, this could significantly impact the administrative operations of DPS. Administrative support will be required for personnel, budget, finance, legal and information technology, etc. Estimate need would be for up to 6 new FTE.

### **CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP**

This legislation conflicts with House Bill 73, which moves the Fire Marshal's Office to the EMNRD.

### **TECHNICAL ISSUES**

DPS suggests:

Page 8, Lines 1 & 2 should be changed from "the necessary law enforcement training" to "the qualifications for a law enforcement officer under NMSA 1978 29-7-6."

Page 5, Line 15 should be changed from "The state fire marshal shall service as" to "The state fire marshal shall serve as"

The PRC proposes the General Appropriation Act should include \$300.0 in general fund to offset the annual \$300.0 allocation from the Fire Protection Fund

### **OTHER SUBSTANTIVE ISSUES**

DPS reports the \$300,000 identified for administrative support is intended to come from the Fire Protection Fund. Historically, language has been included in the PRC appropriation contained in the General Appropriation Act.

According to DPS, not enacting this bill could have two consequences: the Fire Marshal would either stay as a part of the PRC or possibly be moved to EMNRD. The consequences of this transfer would be that the Fire Marshal would not be assigned to an organization whose functions more closely relate to public safety. Therefore, the public would not be served in the most efficient and effective manner. The SFMFTA could stay with the PRC, which is currently not supported by the Fire Service of New Mexico.

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