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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/20/12

SPONSOR Feldman/Gentry LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Restrict Use or Sale of Fireworks SB 5

ANALYST Hoffmann

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY12	FY13		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	See narrative.					

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bill 61

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Regulation Commission State Fire Marshal's Office (PRC)

Department of Game and Fish (DGF)

Energy, Minerals and Natural Resources Department (ENMRD)

Department of Public Safety (DPS)

New Mexico Municipal League

### SUMMARY

#### Synopsis of Bill

Senate Bill 5 (SB5) proposes to amend the *All Hazards Emergency Management Act* (Chapter 12, Article 10 NMSA 1978) and the *Fireworks Licensing and Safety Act* (Chapter 60, Article 2C NMSA 1978) to expand the authority to proclaim a state of emergency to ban the sale, use, or use and sale of fireworks from "the governing body of a municipality" to include the governor. Such a proclamation would only apply to specified areas where the National Fire Danger rating

is high, very high, or extreme. The bill contains an emergency clause.

The bill would specifically amend the following sections of current statutes.

Section 12-10-4 NMSA 1978 would give the governor authority to proclaim a state of emergency based on the fire danger rating.

Section 60-2C-2 NMSA 1978 would clarify the definition of “fireworks” to exclude “novelties” which are separately defined as devices containing very small amounts of pyrotechnic substances.

Section 60-2C-8.1 NMSA 1978 would change the fire danger risk criterion from “extreme or severe drought conditions” to the current fire danger ratings of the National Fire Danger Rating System of the United States Forest Service.

## **FISCAL IMPLICATIONS**

Senate Bill 5 makes no appropriation.

The DPS states that giving the governor, municipalities, and counties to the authority to restrict the sale and use of fireworks during designated periods of time could potentially prevent DPS from the expenditure of funding resulting from an emergency response to a fire-related disaster.

The EMNRD reports that wildfires result in significant costs to federal, state and local governments. 2011 was one of the most active fire seasons on record across New Mexico and the southwestern United States. During FY-11, 854 fires burned approximately 596,857 acres of state and private land. Approximately 80% of the wildfires occurring on State jurisdiction are human caused. The cost to fight the fires exceeded \$22 million.

## **SIGNIFICANT ISSUES**

The EMNRD adds the points below.

Fireworks are one of the preventable human causes of wildfires. An example of a dangerous wildfire caused by fireworks took place in the bosque in Albuquerque. The Atrisco Fire began on June 24, 2003 near the I-40 Bridge and burned approximately 150 acres. The Montaña Fire began two days later near the Montaña Road Bridge and burned approximately 113 acres. A total of approximately 263 acres of Bosque were destroyed and numerous homes were threatened. Careless use of fireworks caused the Atrisco Fire. These fires cost the City of Albuquerque, the State of New Mexico and FEMA over \$1 million in fire suppression costs. The costs to rehabilitate the burned area was also significant and in addition to the suppression costs.

The 2011 fire season is a very good example of a year when fires started very early in the year, with a serious fire in Silver City that began in February. The state experienced devastating wildfires in southeastern New Mexico then eastern and western New Mexico followed by extremely difficult fires in northern New Mexico. The state’s fire fighting resources were stretched in every direction, equipment was taxed to the maximum and fire fighters were literally moving around the state from fire to fire. In this type of scenario when almost every resource has been deployed for months the sale of fireworks could not come at a worse time. The state’s

firefighting resources may need to respond to fight fires started by fireworks at the exact moment when they have already been taxed to the maximum. The ability to reduce that risk by limiting the sale of fireworks is critical to addressing a scenario when New Mexico is experiencing a wildfire season where every fire could be potentially devastating to life and property.

### **PERFORMANCE IMPLICATIONS**

This EMNRD claims this bill would benefit the Forestry Division's efforts to reduce the number of human caused wildfires. Human caused wildfires are preventable and measures such as this bill will help reduce costs of wildfire suppression and reduce the threat of wildfires to communities and property in wildland areas.

### **RELATIONSHIP**

House Bill 61 proposes to distribute 60% of net gross receipts tax from the sale of fireworks to a "wildlands fire prevention" fund.

### **OTHER SUBSTANTIVE ISSUES**

The EMNRD further adds that in addition to local government's role regarding fireworks sales, and use restrictions, it is important that the governor be able to restrict the sale, and use of fireworks, on a statewide or regional level when conditions warrant. For example, if a county implements fireworks restrictions within their jurisdiction during a period of extreme fire danger, and a municipality within the county, or neighboring county does not act in time to implement fireworks restrictions, the governor will have the ability to ensure the fireworks restrictions are implemented effectively and consistently across an area of high fire danger.

During periods of high, very high, and extreme fire danger, New Mexico cannot risk even one preventable human caused fire, regardless of the ignition source, especially near the Fourth of July weekend, which is toward the end of the fire season in the State. Firefighter fatigue is a major factor by the Fourth of July holiday due to the timing of fire season in New Mexico, which can begin in late January and end when monsoon moisture arrives in July or August. Also, firefighting resource scarcity becomes an issue at this time of year when the state may have resources committed to multiple large fires, and the available out-of-state resources are reduced due to wildland fire activity increasing throughout the western United States at this time of year.

The EMNRD Forestry Division continues to have the responsibility to limit or ban the use of fire on non-municipal, non-federal lands in the state. The EMNRD Forestry Division takes the position that fireworks constitute open flame and has banned their use, along with other sources of open fire, during periods of high fire danger.

CH/lj