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FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/09

SPONSOR Martinez, W.K. **LAST UPDATED** _____ **HB** 425

SHORT TITLE Motor Transportation Highway Police **SB** _____

ANALYST Weber

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Department of Finance and Administration (DFA)
 Department of Public Safety (DPS)
 Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

House Bill 425 enacts the “Motor Transportation Highway Police Act,” creating the non-cabinet level Motor Transportation Highway Police Department (“department”) in the executive branch. The bill sets out the qualifications of an officer within the department and lists the powers and duties of the director and other officers, including being peace officers with full power to apprehend, arrest and bring before the proper court of law violators within the state and having authority to enforce the Motor Carrier Act, the Motor Transportation Act, the Motor Vehicle Code and the Criminal Code.

The bill requires the department to enter into an agreement with a regional transit district created by the Regional Transit District Act to provide security, safety and police services on or in rolling stock, property, rights of way, easements and facilities owned, leased licensed or operated by the district. The department is to receive operational support, including dispatch service, and maintenance from the Department of Public Safety and the Department of Information Technology and from private vendors pursuant to the Procurement Code.

House Bill 425 – Page 2

HB 425 amends 9-19-4 NMSA 1978 to abolish the Motor Transportation Division within the Department of Public Safety. The bill contains a temporary provision, Section 33, governing the transfer of personnel, property, contracts and references in law and rules to the new Motor Transportation Highway Police Department. The bill repeals Sections 65-1-38 through 65-1-45 NMSA 1978 organizing and governing the Motor Transportation Division.

The Bill enacts a new section of the Regional Transit District Act, Section 73-25-1 NMSA 1978, to require a district to enter into an agreement with the Motor Transportation Highway Police Department.

The effective date of the Act is July 1, 2009.

A section by section review of the bill includes:

Section 1 of the legislation cites the name of the Act.

Section 2 defines terms used throughout the text of the legislation.

Section 3 creates the Motor Transportation Highway Police Department, and notes that it is not a cabinet agency.

Section 4 establishes the powers and duties of the agency director, and specifies that the appointment shall serve at the pleasure of the Governor.

Section 5 sets conditions for personnel, appointments and commissions for officers in the department. All appointments of commissioned and non-commissioned personnel will be hired pursuant to the Personnel Act, and the director shall commission officers.

Section 6 sets the qualifications for officers.

Section 7 of the legislation sets forth the powers and duties of the agency director and officers.

Section 8 sets forth the uniform and badges of the Motor Transportation Highway Department, and provides for the director to set a uniform allowance for employees.

Section 9 provides that the Motor Transportation Highway Department shall enter into an agreement with the Regional Transit District (Rail Runner) to provide security and safety/police services. The Motor Transportation Highway Department will create a unit within the department to cover these services and be known as the Regional Transit District Police. Up to 13 FTE may be hired to fulfill the terms of the agreement with the Regional Transit District.

Section 10 details the operational support to the Motor Transportation Highway Department from other state agencies.

Section 11-32 of the legislation strikes various provisions of existing law that refers to the Motor Transportation Division of the Department of Public Safety, and replaces it with the proposed name of the new department.

Section 12 reduces the number of program divisions within the Department of Public Safety from five to four, reflecting the transfer of the Motor Transportation Division to a new agency as proposed in this legislation. This section also requires all state agencies with law enforcement powers/duties to prepare a comprehensive statewide law enforcement strategic plan for efficient, effective and coordinated provision of law enforcement services with measurable goals for evaluating performance and assessing progress in effectuating the plan. The department shall report to the Legislative Finance Committee (LFC) and appropriate interim committee of the legislature the results of the measurements annually prior to October 1.

Section 33 transfers personnel and related appropriations to create the new department. Nine FTE in addition to the designated MTD personnel will transfer to the new department: of one attorney position, three payroll and finance positions, one human resources position, two information technology positions and two administrative positions. All appropriations, money, records, property, equipment and supplies of the Motor Transportation Division are transferred to the new department. The new department would also be responsible for all contracts, grants, agreements and other obligations of the Motor Transportation Division.

FISCAL IMPLICATIONS

While all positions and equipment are currently funded it is likely addition expense would be incurred for rents, moving expenses, IT equipment, etc that is not defined in the bill.

DFA adds.

The legislation transfers personnel, appropriations and obligations of the MTD to the new department. The number of FTE for the new department could cause a hardship for both the new department and DPS which will lose important personnel, particularly in Program Support where important administratively functions such as finance, accounting and human resources functions take place. This may require additional funding to support both independent agencies in the future.

DPS continues on related fiscal issues.

Loss of the 9 full time employees (FTE) from The Department of Public Safety moving to the new Department would have an adverse affect on the operation of DPS. These include one attorney, three payroll and finance positions, one human resource position, two information technology positions and two administrative positions. The MTPD already has three and one half finance employees, two human resource persons, two information technology people, various administrative and grants management personnel working out of MTPD headquarters. The transfer of these personnel would not be necessary for the new department to function efficiently. Any needed positions can be re-classed from the excess vacancies that exist in the MTPD. DPS has not had an increase in FTE on the administrative side since 1981. The growth of DPS has far outgrown the support capabilities of the department. Removing employees in these critical areas would affect the operation of DPS creating excessive workload on already overworked support personnel.

Currently MTPD personnel are housed in facilities with State Police and DPS personnel. Creation of a new agency would eventually require capital outlay expenditures to house officers and support personnel in the various locations around the state. Currently, DPS buildings are over maximum capacity and the new agency would require new building space.

MTPD currently uses joint facilities and services with State Police for radio communications, fleet services, information technology support and various other support functions. A new agency would require new facilities, equipment and personnel to conduct needed services for the operation of the department. These issues are not addressed in this bill.

SIGNIFICANT ISSUES

DPS continues.

The Department of Public Safety was created to bring state level law enforcement and public safety entities under one roof to provide more effective and efficient public safety services to the citizens of the state. The transfer of MTPD into DPS in 1998 was in line with that purpose and the intent of the legislative and executive branches desire at that time. Taking MTPD out of the DPS would be contrary to the intent of the legislation and create the capacity for less efficient services to the public. Currently MTPD, State Police and Special Investigations Division work hand in hand on operations. A successful example is the drastic reduction in DWI related accidents and deaths New Mexico has experienced over the past 3 years. This is as a result of agencies working together in concert on these issues. Conducting joint roadblocks, operations and public service announcements have saved many lives and taken New Mexico out of the spotlight as one of the worst states in the union on this matter. Splitting MTPD out of DPS would create a less efficient law enforcement response to crime and traffic issues. The MTPD mission is within the umbrella of public safety and should remain within DPS and the intent of the authorizing legislation.

The Motor Transportation Police are the first line of defense against threats to homeland security from individuals utilizing commercial motor vehicles as a means of terrorism and perform a wide range of regulatory and enforcement activities statewide. The division guards against the introduction of illegal drugs, goods and harmful materials entering into New Mexico with minimal impact to legitimate trade through a variety of activities. These activities include accident investigations, crash reduction initiatives, drug interdiction, safety inspections of commercial motor vehicles, hazardous materials inspections, radiological monitoring, compliance reviews (safety audits) of motor carriers, size and weight enforcement and permit & tax compliance. The division is committed to strengthening New Mexico's border security by managing risks and interdicting threats before they enter our state.

With this mission in mind, adding the additional responsibilities that are proposed with this legislation would take the MTP away from their primary mission. This could have many adverse effects on the state to include the safe operation of our commercial motor vehicles, as well as the amount of revenue the MTP collects for the State of New Mexico. Furthermore, the Division currently has difficulty in filling commissioned positions, adding another 13 positions to fill would be difficult at best.

MW/mt