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FISCAL IMPACT REPORT

SPONSOR Taylor DATE TYPED 2/25/05 HB _____

SHORT TITLE State Trail System Right-Of-Way Liability SB 661

ANALYST Aguilar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates House Bill 430 & Senate Bill 332

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

Attorney Generals Office (AGO)

Commissioner of Public Lands (SLO)

SUMMARY

Synopsis of Bill

Senate Bill 661 modifies Section 16-3-9 NMSA 1978 which currently provides tort immunity to a person or corporation that has granted a right-of-way or easement to the energy, minerals and natural resources department (EMNRD) for use in the state trails system, for injuries suffered on the right-of-way or easement. This bill adds “governmental entity” as a grantor and provides added protection to the entity.

Significant Issues

The Attorney Generals Office notes governmental immunity from tort liability relates primarily to the application of the doctrine of sovereign immunity and the waivers of sovereign immunity allowed under the NM Tort Claims Act 1978 NMSA §41-4-1 et seq. This statutory amendment may modify waivers of immunity, which have been granted under the Tort Claims Act

State parks Division notes the number one recreation priority that the citizens of New Mexico identified in the 2004 State Comprehensive Outdoor Recreation Plan was trails. This bill would enhance the ability of the State to provide more trails for the citizens by providing a mechanism to remove liability from governmental landowners for potential development and inclusion in the statewide trails system.

PERFORMANCE IMPLICATIONS

Enactment of this bill may assist the State Parks Division meet performance measures relating to the number of visitors to state parks.

OTHER SUBSTANTIVE ISSUES

The New Mexico State Trails System Act already provides an exemption of liability to any person or corporation that grants a trails right-of-way to EMNRD except under the conditions of gross negligence or willful or wanton misconduct (Section 16-3-9 NMSA 1978); however this amendment to the same section of the Act will limit liability of governmental entities, such as irrigation districts, that grant easements to EMNRD. Further, this bill would remove a major impediment to key players participating in such projects and has the potential to get huge sections of trail networks that already exist along the Rio Grande and other places opened more quickly to public use.

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