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FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/10

SPONSOR Cote LAST UPDATED _____ HB 18

SHORT TITLE State Trail Law Enforcement Authority SB _____

ANALYST Woods

APPROPRIATION (dollars in thousands) *

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
			See Fiscal Implications

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands) *

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Recurring	State Parks, General

(Parenthesis () Indicate Expenditure Decreases)

* Fiscal projections provided by the Energy, Minerals and Natural Resources Department

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

Attorney General (AGO)

Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

House Bill 18 (HB18) amends the New Mexico State Trails System Act (Act) [NMSA 1978, Sections 16-3-1 to 16-3-9] and amends the statute that governs the police powers of the State Parks Division (SPD) law enforcement rangers [NMSA 1978, Section 16-2-30]. The proposed amendments to NMSA 1978, Sections 16-3-1 to 16-3-9 would clarify the process under which “state trails” could be designated and would establish a special state trails fund to support trails projects in New Mexico. The proposed amendments to NMSA 1978, Section 16-2-30 would

authorize qualified Energy, Minerals and Natural Resources Department (EMNRD), SPD employees (i.e. only certified law enforcement rangers) to share jurisdiction with existing law enforcement officers authorized to enforce the law along designated state trails, including on trail segments outside the boundaries of state parks that are contiguous to a state park.

FISCAL IMPLICATIONS

EMNRD notes that no money is appropriated to the fund at this time, and no process is included to generate such funds. It is created as a mechanism to hold federal funds, gifts and possibly, future appropriations. (See Significant Issues below.)

SIGNIFICANT ISSUES

EMNRD indicates that HB18 would amend the existing Act (NMSA 1978, Sections 16-3-1 to 16-3-9) and NMSA 1978, Section 16-2-30, which governs the police powers of the SPD. The existing Act was originally passed in 1973, and was intended to result in a system of designated “state trails”. The Act, however, has not been used since because of provisions in the statute that limit its application and implementation. Currently, there are actually no “state trails” designated under the Act. HB18 would:

- (1) clean-up outdated language of the statute and re-order some sections to create a better statutory structure;
- (2) change the “state trail” designation process and EMNRD’s implementation of the Act to make it more workable;
- (3) establish a state trails fund (but not generate or appropriate revenue into this fund); and
- (4) authorize qualified SPD employees (i.e. only certified law enforcement rangers) to enforce the law along designated state trails that are within or contiguous to state parks.

EMNRD adds that the practical result of these changes would be significant improvement in the SPD’s ability to implement the Act and to construct, maintain, operate, and otherwise be an involved partner with trails in New Mexico that are important enough to be designated as “state trails.” These amendments are extremely important for the success of long-distance trail projects such as the Rio Grande Trail, a proposed multi-use trail along the river corridor. If the Trails System Act were implemented as it currently exists, there would be obligations that could not be implemented. For example, SPD law enforcement authority is limited to within the boundaries of the Parks. The current law imposes all the law enforcement responsibility on EMNRD and not on SPD officers. EMNRD as a department does not have department law enforcement personnel. The amendments give SPD officers the authority to enforce laws on the State Trails that are contiguous to state parks and shares this with the State Police, county sheriffs and municipal police. With the proposed amendments, the cost of implementing the Act should be significantly less than the current law imposes because some of the duties and responsibilities are decreased.

EMNRD delineates HB18’s impact into several main areas:

Statutory Clean-up. HB18 cleans up outdated language, and moves and reorders sections for more internal consistency.

State Trail Designation. HB18 would set clearer criteria for what qualifies for designation as a “state trail”. The criteria in HB 18 track the criteria that are used to assess what qualifies for state park status. The basic designation process itself, however, which already requires certain findings by the Secretary, a public involvement component prior to designation, and minimizes impacts on private landowners, would remain unchanged, except that it would be improved with the addition of a requirement that the Secretary assess the suitability and feasibility of a proposed state trail prior to any designation. HB 18 would also delete one type of state trail in the Act (“special use trails”). EMNRD believes that this trail type is poorly defined and the category is not necessary, since the other major types of state trails (e.g. scenic, recreational, and historic trails) generally cover those types of trails most likely to qualify for state trail designation and warrant state involvement. HB 18 would also add “off-highway vehicle” to the list of trail activities that are included in the Act’s purpose section. Off-highway vehicle use is already included in the Act in NMSA 1978, Section 16-3-4 as an authorized use on state trails, but should be added to the main list in the Purpose section.

EMNRD Requirements. One of the reasons that the Act has been little used to designate “state trails” is because it is unwieldy, cumbersome, and no longer fits with many current approaches to establishing and managing trails. For example, the Act currently requires the Secretary of EMNRD to “plan, establish, acquire, purchase, develop, construct, enlarge, improve, maintain, equip, operate, protect and police the state trails system”. This requirement puts extensive and *exclusive* responsibilities on EMNRD—such as having to “acquire” and “operate” the entire length of every trail that is designated as a “state trail”. It is also burdensome for EMNRD to be deemed to be the law enforcement entity exclusively charged with law enforcement on state trails. A better solution is for SPD employees to share jurisdiction with other law enforcement entities. This requirement is not a good fit for many trail situations (particularly long-distance trails that cross multiple jurisdictions, or for trails that actually already have a trail managing entity in place) and is not essential for the success of a designated “state trail”. Indeed, other states have “state trails” designated that are under diverse management arrangements that do not require them to be completely, 100 percent owned and managed by the lead state agency for trails. Because of the numerous “shall” requirements on the Secretary of EMNRD, which are virtually impossible to meet in most circumstances, no “state trails” have ever been designated. HB 18 would change some of these provisions to give the Secretary a more flexible role in “state trails”. That flexibility would result in better management outcomes in terms of EMNRD’s ability to administer the Act.

State Trails Fund. HB 18 would establish a state trails fund, but does not appropriate money into this account. Nor does it create a mechanism for generating funds for this account. Currently, EMNRD administers mainly federal grant funds for trails projects in New Mexico. These federal grants require a non-federal match. Establishment of a state trails fund would be helpful in that it could help direct and focus state appropriations on trails in a consistent and streamlined fashion. Also, if the state ever decided to dedicate consistent funds to the statewide trails program, the fund would be ready to receive those funds.

Management and Enforcement. HB 18 would grant New Mexico’s lead trails agency (the SPD) law enforcement authority on designated state trails, including those designated state trails outside state park boundaries that are contiguous to state parks. Many long-distance trails cross jurisdictional boundaries and under current statute, SPD cannot effectively

partner and assist with trails management in these situations. This amended law enforcement authority could be critical in some situations and projects, such as along the proposed Rio Grande Trail, where it may be important for SPD rangers to be able to patrol sections of the trail between existing state parks (e.g. between Percha and Leasburg State Parks) in order to assist and supplement local law enforcement capacity.

EMNRD concludes that the most important finding of the 2004 New Mexico Statewide Outdoor Comprehensive Recreation Plan was that more and better trails are the #1 outdoor recreation priorities for New Mexicans. New Mexicans want more trails where they live, work, and play. Trails are excellent recreation resources for all people of all ages; they can also stimulate economic development, help improve the quality of life in communities and promote healthy lifestyles, which fights obesity and reduces society's health care costs. Modernizing the Act will help achieve all of these goals and help realize these enormous opportunities.

Neither DPS or AGO raises any significant issues with this legislation, although AGO does note, "HB 18 raises no significant issue by broadening the police powers on state trails, however, the amended language specifies no primary jurisdiction and this could lead to confusion and/or overlapping with different entities responding to a single incident on a state trail."

PERFORMANCE IMPLICATIONS

EMNRD suggests that enactment of the HB 18 will positively affect performance measures for the SPD (such as visitation, revenue generation, and educational programs delivered) both directly and indirectly. For example, with "state trails" designated and the SPD assisting with some of these projects, more visitors could be attracted to state parks. An example of this would be the Rio Grande Trail, which will attract more visitors to the five state parks in the lower Rio Grande Valley.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

EMNRD states, "Designation of 'state trails' under the Act will remain cumbersome, if not impossible. SPD will lack authority to provide programs and assistance on sections of designated state trails that extend outside state park boundaries but are contiguous to state parks. Without the statutory changes in HB 18, long-distance trail projects such as the proposed Rio Grande Trail will be difficult to accomplish under the leadership of the EMNRD/SPD.

AMENDMENTS

EMNRD proposes the following amendments:

Page 12, Line 6: After the word "develop" insert ", construct". This will make the language regarding the Secretary's authorized duties consistent with the language in Section 5(B)(2) [Page 10, Line 24].

On page 2, line 15 "to" needs to be inserted after "contiguous".