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FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/11

SPONSOR Bandy LAST UPDATED _____ HB 206

SHORT TITLE Merge Game and Fish with EMNRD SB _____

ANALYST Graeser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NFI	Unknown	Unknown	Unknown	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy Minerals and Natural Resources Department (EMNRD)

Department of Game and Fish (DGF)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 206 dissolves Department of Game and Fish (DGF) as a standalone entity and includes it as a division of EMNRD. Both agencies deal with environmental related issues and

outdoor activities such as hunting fishing, forest management and state parks operation. Other divisions of EMNRD are involved with renewable energy, mine reclamation and oil and gas well permitting. The DGF is already administratively attached to EMNRD.

The bill eliminates the State Game Commission and transfers its duties to the Game and Fish Division and the EMNRD. The Parks Advisory Board would be expanded to be the Parks and Game and Fish Advisory Board.

The bill and the merger would take effect on July 1, 2011.

FISCAL IMPLICATIONS

GRTF staff have prepared the following table, which shows the operating budget for the years FY08 through FY11.

	FY11		FY10		FY09		FY08	
	DGF	EMNRD	DGF	EMNRD	DGF	EMNRD	DGF	EMNRD
GF	0	21,690.1	0	24,850.8	336.8	27,388.3	333.1	25,923.5
OST	27,175.2	17,817.7	25,353.9	22,523.0	23,912.0	15,390.4	22,759.6	16,602.1
Transfers	0	3,466.6	0	2,962.3	5.0	2,918.6	5.0	2,949.3
Federal	11,293.7	28,014.5	10,942.5	27,918.2	12,417.2	25,492.2	12,778.7	24,349.9
Total	38,468.9	70,988.9	36,656.4	78,254.3	36,671.0	71,189.5	36,876.4	69,824.8
FTE	305	510	308	535	302.5	526	301.5	524

GRTF notes particularly that “DGF has not had an appropriation from the general fund for the past two years. Its revenues are primarily derived from sales of hunting and fishing licenses.”

17-1-14 NMSA 1978 states: “The state game commission shall have general control over the collection and disbursement of all money collected or received under the state laws for the protection and propagation of game and fish, which money shall be paid over to the state treasurer to the credit of the game protection fund, unless otherwise provided by law, and the fund, including all earned income there from, shall not be transferred to another fund. Chapter 17 NMSA 1978 shall be guaranty to the person who pays for hunting and fishing licenses and permits that the money in that fund shall not be used for any purpose other than as provided in Chapter 17 NMSA 1978.”

GRTF staff notes that the Department could lose \$12 million in Federal funds, if hunting and fishing license fees and some other revenues are not properly earmarked. “The bill does not change the intent of the statutory language that earmarks these revenues for the specific purpose of furthering the protection and propagation of game and fish. This makes financial integration of the entities difficult to impossible since DGF has no funds that can be used for the current ENMRD purposes. This is further complicated by the eligibility for federal funds qualifier that requires this protection of hunting and fishing license receipts in the manner stated in 17-1-14 NMSA 1978. This provision can be changed allowing more liberal use of the license monies but only at the risk of losing approximately \$12 million of federal grants annually. To the degree that these earmarks are maintained and the adherence of the federal requirements, this leaves the funds for EMNRD and DGF in silos with only minimal opportunity to produce savings from the general fund.”

EMNRD notes a progressive fiscal effect over time: “...there would be a short term negative impact to the budget since the combination of departments would require expenditure of state funds and resources to ensure a unified operation of the new department. Long term savings will be realized by the elimination of some exempt positions and the careful reorganization of Administrative Services between the departments.”

“The costs of integrating DGF into EMNRD are difficult to quantify. One-time, non-recurring expenditures of funds may be needed to unify information technology systems, build and post signage, redo stationery and business cards, etc. to properly identify the new agency. Additionally, accounting system procedures between the two departments may need to be unified within the SHARE system as DGF and EMNRD currently use different systems for lower level accounting within each department.”

“In the long term, recurring savings may be realized due to incorporation of DGF into EMNRD and the combination of Administrative Service Divisions (ASD) and the possible elimination of one or more high level management positions. Savings could be realized by the elimination of duplicative services, however, many business practices/requirements may be unique to either department and would need to be maintained in the new department. Also, EMNRD ASD is currently operating with a 25% vacancy rate so there is little room to cut further.”

“While certain functions common to both agencies may be facilitated by combining the DGF with EMNRD, cost savings from this proposed legislation are not immediately apparent. Loss in efficiency is likely for the first few years due to necessary changes to fiscal procedures to assure compliance with federal and state fiscal requirements.”

SIGNIFICANT ISSUES

EMNRD comments on the proposal:

Merger of EMNRD and Game & Fish Departments. HB 206 will transform the Game & Fish Department into a division of EMNRD and have the Division absorb the duties of the Game Commission. Currently, while Game & Fish is labeled a “department”, it is not a cabinet level agency, and the State Game Commission is administratively attached to EMNRD (NMSA 1978, Section 9-7-3.B). However, the administrative attachment does not involve any shared administrative duties and Game & Fish functions as a separate agency. HB 206 would eliminate the free standing status of Game & Fish and allow the agencies to share administrative functions.

On the policy level, there are advantages to housing the state’s wildlife management programs within a larger natural resources agency. Several surrounding states, such as Colorado and Utah, have broader natural resource agencies that include the state wildlife agencies. There is currently considerable interaction between existing EMNRD programs and Game & Fish, and such interaction would ultimately be enhanced by unified agency.

The resulting integration will result in considerable short term challenges, particularly for fiscal and other administrative duties. Potentially, there could be long term savings from the sharing of administrative tasks (see Fiscal Issues).

Parks Advisory Board. Section 6 of HB 206 expands the role of the advisory board to the

State Parks Division so it also serves as an advisory board for the Game & Fish Division. The Board will advise the Game & Fish Director on rules, policies and “hunting and fishing plans”. This section also eliminates per diem and mileage for Parks Advisory Board (PAB) members. The PAB provides a valuable role to EMNRD/SPD by advising the Division on matters of policy and statewide recreation planning. By removing the per diem and mileage payment PAB members, it will be more difficult to entice people to join the PAB, especially with the expanded role under this bill. In FY10, EMNRD/SPD spent \$3.4K on per diem and mileage to reimburse PAB members attending meetings.

PERFORMANCE IMPLICATIONS

EMNRD notes that “...merging the two departments will significantly impact the ability of the support programs in the agencies to properly function in the short run. These programs will be expending considerable effort to effectively combining the agencies.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 206 conflicts with HB80, which merges EMNRD and Game and Fish and dissolves boards and commissions including for the State Game Commission.

HB 206 conflicts with HB 84 which proposes to merge EMNRD, Department of Game & Fish and the Environment Department.

HB 206 conflicts with HB 157, which creates a Natural Resources and Environment Department. HB 206 may be a companion of or conflict with SB 106, which clarifies the role of administratively attached agencies.

This bill is not the work of the Governmental Restructuring Task Force. HB 80 is the GRTF bill merging the DGF and EMNRD. See the FIR to HB 54 for listing of the GRTF package.

TECHNICAL ISSUES

Game and Fish identifies one technical issue with this bill:

“On page 62, line 7 of the draft, the words ‘but not limited to’ are deleted. The agency is concerned that this may unduly limit the ability to take management actions under the Wildlife Conservation Act.”

OTHER SUBSTANTIVE ISSUES

GRTF staff note the statutes creating the agencies:

- “Sections 17-1-1 through 17-7-3 NMSA 1978 charge the Department of Game and Fish (DGF) with protecting game and fish and providing these resources for public recreation. The department operates under the direction of a seven-member State Game Commission appointed by the governor with the advice and consent of the Senate. The department is divided into four programs: Sport Hunting and Fishing, which regulates all hunting and fishing activities statewide; Conservation Services, responsible for habitat management, biological support, and land acquisition; Depredation Services, which oversees depredation complaints as well as the implementation of intervention options for dealing with animals causing property damage; and Administration, which provides agency wide administrative direction, oversight, and infrastructure support services. The commission employs a director responsible for administration of the department.”

- “The Energy, Minerals and Natural Resources Department (EMNRD) was created by Sections 9-5A-1 through 9-5A-7 NMSA 1978. The statute creates six divisions: Energy Conservation and Management, Forestry, State Parks, Mining and Minerals, Oil Conservation, and Administrative Services.”

GRTF staff also establishes the mission for each as stated by the agency:

- “The mission of the Department of Game and Fish is to provide and maintain an adequate supply of wildlife and fish within the state of New Mexico by using a flexible management system that provides for their protection, propagation, regulation, conservation, and use as public recreation and food supply.”
- “The mission of EMNRD is to position New Mexico as a national leader in energy and natural resource areas. This includes developing reliable supplies of energy and energy-efficient technologies with a balanced approach toward conserving renewable and nonrenewable resources; protecting the environment and ensuring responsible reclamation of land and resources affected by mineral extraction; growing and managing healthy, sustainable forests; and improving the state park system that protects New Mexico’s natural, cultural, and recreational resources for posterity and contributes to a sustainable economy statewide.”

ALTERNATIVES

EMNRD suggests an alternative: “Authorize the merger but delay the effective date by a year to allow the agencies time to properly plan and implement the necessary changes.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The two agencies will continue to function separately.

AMENDMENTS

DGF requests consideration of the following proposed amendment: “Based on the technical and substantive issues identified in the analysis, the Department of Game and Fish proposes the following amendment, or suggests that bill drafters clarify terms of the bill: On page 63, line 1 of the draft, the words ‘but not limited to’ are deleted. The agency is concerned that this may unduly limit the ability to take management actions under the Wildlife Conservation Act.”

LG/bym:mew