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FISCAL IMPACT REPORT

SPONSOR King ORIGINAL DATE 2/18/11
LAST UPDATED _____ HB 435
SHORT TITLE Use of Trail Fund for Maintenance SB _____
ANALYST Hoffmann

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$90.0	\$164.0	\$164.0	\$418.0		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Energy, Minerals and Natural Resources Department (EMNRD)

Department of Game and Fish (DGF)

SUMMARY

Synopsis of Bill

House Bill 435 proposes to amend Section 66-3-1019 NMSA 1978 to restrict the use of trail safety fund for law enforcement and education to no more than 50%. The current statute states that at least 50% of the fund shall be used for law enforcement and education.

The bill would also direct that annually at least 25% of the fund be used for motorized vehicle trail development and improvement. Current statute has no such requirement.

FISCAL IMPLICATIONS

The DGF reports the operating costs for FY12 and FY13 reflect two expansion FTEs being added to this program. That level of funding is in the current Game and Fish budget request. Using current revenues, it appears the Trail Safety Fund could support this level of expenditures.

If the bill were passed in current form, the Department of Game and Fish who administers the trail safety fund could use the state funds dedicated to motorized vehicle trail development and improvement as match to gain federal funds from the Recreational Trails Program, which also has requirement to dedicate some portion of the program funds for motorized trail projects.

SIGNIFICANT ISSUES

The DGF points out some potential implementation issues.

The bill does not specify if these trails are to be built and maintained via grants, contracts or direct expenditures. The Off-Highway Motor Vehicle Act specifically directs the Department to provide grants to entities implementing aspects of the Off-Highway Motor Vehicle Act. Clarifying the intent of this bill would be helpful if it is enacted.

The fact the U.S. Forest Service is already encountering legal challenges to some Travel Management Plans recently released also is a concern. If a U.S. Forest district were to receive a grant but become unable to spend it due to litigation, as occurred during this fiscal year, the Department could be in violation of this bill despite the intent to fully comply.

Bureau of Land Management travel management planning efforts are just beginning, and also could face legal challenges limiting the Department's ability to spend this money on public lands as required.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 481 is a duplicate of this bill.

House Bill 445 would provide for operation of Off-Highway Vehicles on paved streets or highways under specified conditions. It would also prohibit counties or municipalities from imposing fees for Off-Highway Vehicle use on public land.

TECHNICAL ISSUES

The TRD raises a minor point related to current law language that is not changed in the bill:

Section 1, Subsection B, although not being amended by this bill, is worded in a way ("shall") that makes the sub-subsections (1) through (6) mandatory. Strictly speaking, neither (4) nor (6) need be mandatory on a recurring "annual" basis. It would be an improvement if these two sub-subsections were separated from the other four with wording that stated that annual expenditures from the fund "may" be made for these purposes also.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Department of Game and Fish will continue to build education and enforcement programs as required by the Off-Highway Motor Vehicle Act, and fund trail grants when appropriate. During FY 11, more than 50 percent of the grant money available would have been spent on trails if one applicant had not been the subject of a lawsuit.