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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/21

SPONSOR Pirtle LAST UPDATED _____ HB _____

SHORT TITLE Add Mounted Patrol to Law Enforcement SB 267

ANALYST Glenn

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
	\$94.6	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB61

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (NMAG)

Department of Public Safety (DPS)

General Services Department (GSD)

SUMMARY

Synopsis of Bill

Senate Bill 267 adds members of the New Mexico Mounted Patrol to the definition of “law enforcement officer” for the purposes of the Criminal Procedure Act and the Tort Claims Act. The bill also includes members of the Mounted Patrol among law enforcement officers who may file a criminal complaint in magistrate court without cost and adds them to the law enforcement officers authorized to make arrests for misdemeanor violations and warrantless arrests under the Motor Vehicle Code.

SB267 appropriates \$94,560 from the general fund the Risk Management Division (RMD) of GSD for expenditure in FY22 for the costs of general liability, civil rights, tort claims, and workers’ compensation insurance coverage for members of the New Mexico Mounted Patrol.

There is no effective date of this bill. It is assumed the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The appropriation of \$94,560 contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY22 shall revert to the general fund.

GSD states the appropriation appears sufficient to cover premiums consistent with the requirements of the bill.

GSD also notes law enforcement professional liability coverage is subject to the Tort Claims Act and the terms of RMD's letter of administration and liability certificate. Coverage is afforded for those officers performing their official duties under the course and scope of the public entity being served. Coverage may include alleged civil rights violations, excessive force, wrongful arrest, personal injury, and other exposures faced by law enforcement officers and their departments. Workers' compensation coverage is purchased through a third-party carrier.

SIGNIFICANT ISSUES

Under current law, the Mounted Patrol provides assistance at the request of law enforcement agencies and under their direction and control. Section 29-6-4 NMSA 1978. When called to assist, members of the Mounted Patrol are deemed to be the agents or deputies of the requesting agency and possessed of the same powers and duties (Section 29-6-5.) (See also Section 29-6-2, authorizing the director of DPS' State Police Division to provide Mounted Patrol members with pocket commissions effective only when the State Police requests their assistance).

SB267 describes a member of the Mounted Patrol who is considered a law enforcement officer for purposes of the specified laws as one "who has satisfactorily completed a basic law enforcement training program pursuant to Section 29-6-4.1 NMSA 1978 and who has been requested to provide law enforcement assistance by the New Mexico state police or another law enforcement or state regulatory agency." Section 29-6-4.1 empowers the New Mexico Law Enforcement Academy (NMLEA) to approve a basic law enforcement training program for members of the Mounted Patrol.

According to DPS, NMLEA has not developed or approved a basic law enforcement training program for the Mounted Patrol. However, DPS states that, if members of the Mounted Patrol are to be given full arrest authority, they would be subject to the same NMLEA training and certification requirements that apply to the State Police and other law enforcement officers. Otherwise, DPS and other law enforcement agencies who request assistance from the Mounted Patrol under Section 29-6-5 NMSA 1978 will incur additional liability.

GSD states that, from a budgetary standpoint, the Mounted Patrol is not deemed a state agency and is not administratively attached to another state agency, such as DPS. Its funding is not recurring, which creates challenges for keeping them in RMD's risk pool consistently on a year-to-year basis. GSD notes that in 2020 an appropriation for the Mounted Patrol was included with RMD's funding in the General Appropriation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB267 conflicts with HB61 Reserve Police Officer Act, which also amends Sections 31-1-2, 35-6-3, 41-4-3, 66-8-124, & 66-8-125 NMSA 1978.

ALTERNATIVES

Because when they are providing assistance at the request of DPS and other law enforcement agencies Mounted Patrol members are deemed to be agents or deputies of those agencies with the same powers and duties, it may not be necessary to name Mounted Patrol members expressly in the provisions amended by the bill. Additionally, Chapter 29, Article 6, NMSA 1978 might be amended to provide that the liability coverage of the law enforcement agency that requested assistance applies to the Mounted Patrol members who respond to the request.

BG/sb/al