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## FISCAL IMPACT REPORT

SPONSOR Gonzales DATE TYPED 3/18/05 HB 460/aHTC/aHJC  
/aHAFC/aSFC

SHORT TITLE Off-Highway Vehicle Safety & Fee Requirements SB \_\_\_\_\_

ANALYST Moser

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
0 +	0 +	\$90 +	Recurring	State Road Fund (2 yr. registration)
0 +	0 +	\$30 +	Recurring	Local Governments (2 yr. registration)
\$50 +	\$115 +	\$166 +	Recurring	Motor Vehicle Division (registration)
*	*	*	Recurring	Department of Game and Fish
\$300 ++	\$690 ++	\$995 ++	Recurring	Trail Safety Fund (user permit fee)
\$10 ++	\$23 ++	\$33 ++	Recurring	NM Clean and Beautiful Program

(Parenthesis ( ) Indicate Revenue Decreases)

The “+” indicates additional revenue from nonresident annual registration fees.

The “++” indicates additional revenue from nonresident annual user permit fees and nonresident 90-day permit fees.

\* Department of Game and Fish – the number of transactions that would be conducted by the Department of Game and Fish is unknown – also see Technical Issues.

Assumptions: 60,000 registered vehicles, plus some unknown number of nonresident permits (+, ++).

**The fiscal impact does not include any increased compliance regarding off-highway vehicle registrations. Presumably a very large number of off-road vehicles are not currently registered, and the fiscal impact estimate assumes full compliance currently. Therefore, the positive fiscal impact to the State Road Fund and local governments is very much understated. Similarly, if very few three-year registrations are currently in place, the out-year fiscal impacts would manifest more quickly.**

The revenue illustration excludes some minor amount of dealer demonstration certificate fees.

Note: Since the ATV registration is changed from a 3 year period to a 2 year period, there is a positive fiscal impact on the State Road Fund and Local Governments beginning in the 3<sup>rd</sup> year after the effective date. The bill includes no transition provision for existing 3-year registrations, so the full revenue impact will not be realized until FY2009 (when 3-year registrations obtained at the end of calendar year 2005 are due for renewal).

Duplicates SB-252

## SOURCES OF INFORMATION

LFC Files

### Responses Received From

Department of Transportation (DOT)

Corrections Department (CD)

Department of Finance and Administration (DFA)

## FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

### SUMMARY

#### Synopsis of SFC Amendment

The Senate Finance Committee Amendment exempts individuals who operate off-highway motor vehicles on privately held lands from the provisions of the Off-Highway Motor Vehicle Act. The amendment additionally changes the authority of the off-highway motor vehicle safety board from making determination of locations of off-highway motor vehicle parks, facilities and trail locations and restoration projects to that of making recommendation "...to the state, county, tribal or local governing body or private entity that owns or administers the land upon which the tracks or trails are located."

#### Synopsis of HAFC Amendment

The House Appropriation and Finance Committee Amendment increases the size of the Off Highway Safety Board from 15 members to 17 members with the new members being one from the US bureau of land management and one from the US forest service. Both appointments would be made by the governor.

#### Synopsis of HTC Amendment

House Transportation Committee Amendment restores present law language that exempts from regulation vehicles owned by non-residents and brought into the state only for competition. The only difference from present law, after the amendment, is that the current limit on the exemption to 15-day period is stricken. Permits 15 year olds with an instructional permit or provisional license to operate an off-road vehicle without supervision. Competition vehicles are exempted from noise regulation. ATV use is allowed on state lands where permitted by the Secretary of Energy, Minerals and Natural Resources. Other amendments are clean-up and tracking language. HTC and HJC Amendments have addressed known technical issues identified by the NMDOT.

#### Synopsis of Original Bill

House Bill 460 revises sections of the Off-Highway Motor Vehicle Act providing a number of new safety and safety training provisions, and imposing a new off-highway user fee directed to the new Trail Safety Fund. The current three-year off-highway vehicle registration fee amount is increased from the current \$15 to be a two-year registration for \$17, with portions of the fee directed to the Motor Vehicle Division to offset additional costs associated with the provisions of the bill.

This review addresses the fiscal impact aspects of the bill, and does not address the safety issues or the off-highway trail development aspects of the bill.

Significant Issues

The fiscal impact shown on page 1 does not include any increased compliance regarding off-highway vehicle registrations. Presumably a very large number of off-road vehicles are not currently registered, and the fiscal impact estimate assumes full compliance currently. Therefore, the positive fiscal impact to the State Road Fund and local governments is very much understated.

**PERFORMANCE IMPLICATIONS**

The Department of Finance and Administration feels that this bill is convoluted and performance based budgeting will be difficult to administer.

**FISCAL IMPLICATIONS**

The NMDOT makes the following assumptions: 60,000 registered vehicles, plus some unknown number of nonresident permits (+, ++).

The fiscal impact does not include any increased compliance regarding off-highway vehicle registrations. Presumably a very large number of off-road vehicles are not currently registered, and the fiscal impact estimate assumes full compliance currently. Therefore, the positive fiscal impact to the State Road Fund and local governments is very much understated. Similarly, if very few three-year registrations are currently in place, the out-year fiscal impacts would manifest more quickly.

The revenue illustration excludes some minor amount of dealer demonstration certificate fees.

Note: Since the ATV registration is changed from a 3 year period to a 2 year period, there is a positive fiscal impact on the State Road Fund and Local Governments beginning in the 3<sup>rd</sup> year after the effective date. The bill includes no transition provision for existing 3-year registrations, so the full revenue impact will not be realized until FY2009 (when 3-year registrations obtained at the end of calendar year 2005 are due for renewal).

DFA indicates that an indeterminate appropriation impact will be seen and revenues are estimated as follows based upon assumptions in FY06 of 1000 new registrations in state and 200 out of state users:

Registration fees - \$20.4

User fees - \$36.0

Clean and Beautiful Program \$1.2

The registration fees shall be distributed as follows:

Division \$6.0

Motor Vehicle Suspense Fund - \$14.4

The special user fee shall be distributed as follows:

Game and Fish Game Protection Fund - \$7.00 out of each user fee collected by Game and Fish.  
Remainder of fee if collected by Game and Fish, or all of fee if collected by another agency, to Trail Safety Fund

There are approximately 40,000 ATV's currently registered (from last years FIR, HB 257). If all these vehicles require re-registration in FY07 the fiscal impact would be:

Registration fees - \$680.0

User fees - \$1,200.0

Clean and Beautiful Program \$40.0

The registration fees shall be distributed as follows:

Division \$200.0

Motor Vehicle Suspense Fund - \$480.0

The special user fee would be distributed as follows:

Game and Fish Game Protection Fund - \$7.00 out of each user fee collected by Game and Fish.

Remainder of fee if collected by Game and Fish, or all of fee if collected by another agency, to Trail Safety Fund

## ADMINISTRATIVE IMPLICATIONS

DFA indicates that the fees may be collected by the Department of Tourism, in conjunction with Department of Game and Fish for both residents and non-residents. How a field officer will check out of state registration is a concern. How Department of Tourism will implement a system for charging user fees is not addressed in the bill.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB-252 is a duplicate

## TECHNICAL ISSUES

The NMDOT offers the following:

- On page 13, line 24 the term “driver’s license” should be replaced with the terms “in-structional permit or provisional license” applicable to persons age 15 through 17 years.
- Section 4, Subsection F presents a technical conflict with other provisions in Section 4, Subsections A through E of the bill. Section 4, Subsection (F) states: “*Notwithstanding the provisions of Subsections A through E of this section, seven dollars (\$7.00) shall be distributed to the department of game and fish for each fee that the department of game and fish collects.*” The problem here is that Subsections A through E distribute all of the fees in very specific amounts. **The “notwithstanding” provision leaves the Motor Vehicle Division (MVD) in the role of deciding a substantive provision of law with no guidance from the Legislature.** Subsections A through E generally direct \$5 of the registration fee to MVD, \$12 of the registration fee to the Section 66-6-23 distribution (or to the Trail Safety Fund in the case of a 90 day nonresident permit), the off-highway user permit fee to the Trail Safety Fund, and the \$1 NM Clean & Beautiful fee to the Tourism Department. If \$7.00 is directed to the Department of Game and Fish, the MVD must decide what entities will receive less revenue than is specified in the other distribution sections, and the bill suggests no guidance for this decision. This particular provision was amended into last year’s bill in the Senate Finance Committee late in the session, and

there was no time to repair this conflict before the legislature adjourned.

When the Department of Game and Fish conducts the transaction, there may be less need to reimburse MVD their \$5 portion of the fee. The remaining \$2, or possibly the entire \$7, necessary to cover the Game and Fish reimbursement would have to come either from the Section 66-6-23 distribution to the State Road Fund and local governments (2 year permits), or from the distribution to the Trail Safety Fund (90 day nonresident permits). It seems likely MVD would choose to keep its \$5 share and take the \$7 Game and Fish share out of the other recipients' portion.

- The “notwithstanding” provision of Section 4, Subsection F may also require additional clarification. The distribution to the Game Protection Fund is specified to be “\$7 *for each fee collected*”. Presumably the Game and Fish Department might: 1) register a resident’s vehicle involving 2 fees; 2) register a nonresident’s vehicle for a two-year period involving 2 fees; or, 3) issue a 90-day permit involving 1 fee. It is unclear whether Game and Fish might receive \$14 on some transactions that involve 2 fees, and \$7 on other transactions that involve only 1 fee.

#### **OTHER SUBSTANTIVE ISSUES**

DFA questions why the Department of Tourism would be responsible for charging a fee to tourists is novel.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

Off-highway vehicles will continue to be registered at \$15.00. New safety regulations would not go into effect.

EM/yr:lg:rs