

IV. Department of Natural Resources -- George Meyer, Secretary

The department is requesting that the Committee take action under s. 350.12(4)(br), as amended by 1995 Wisconsin Act 27, to increase the FY97 expenditure amount for supplemental trail aids within the snowmobile trail recreation aids appropriation under s. 20.370(5)(cs) by an additional \$80,000 SEG.

Governor's Recommendation

Approve the request.

Date: March 27, 1997

To: Members, Joint Committee on Finance

From: Mark D. Bugher, Secretary
Department of Administration

Subject: Section 13.10 Request from the Department of Natural Resources for Increased Expenditure Amount for Supplemental Trail Aids.

Request

The Department of Natural Resources (DNR) requests that the committee take action under s. 350.12 (4) (br), as amended by 1995 Wisconsin Act 27, to increase the FY97 expenditure amount for supplemental trail aids within the snowmobile trail recreation aids appropriation under s. 20.370 (5) (cs) by \$80,000 SEG.

Background

The Snowmobile Account within the Conservation Fund receives funding from user fees and the motor fuel tax as specified under s. 25.29 (1) (d). The account funds a variety of snowmobile projects, including supplemental trail aids for costs in the previous fiscal year that exceeded the statutory \$200 per mile maximum for trail maintenance.

Snowmobile Gas Tax Multiplier

The motor fuel tax revenues transferred from the Transportation Fund equal 140% of the product of the number of snowmobiles registered in Wisconsin at the end of February of the previous fiscal year and the amount of motor fuel tax in February of the previous fiscal year assessed on 50 gallons of gasoline. For FY97, \$3,161,200 was transferred to the Snowmobile Account (192,992 registered snowmobiles x [23.4¢ per gallon x 50 gallons] x 1.4).

The majority of the snowmobile gas tax revenue is used to reimburse trail maintenance costs. Under s. 350.12 (4) (b) 1., trail maintenance costs are reimbursed up to a \$200 maximum per mile per year. Trail maintenance costs exceeding the maximum are reimbursed through supplemental trail aids, as provided for under s. 350.12 (4) (bg). All of the funds generated by the 40% motor fuel tax multiplier are earmarked for supplemental trail aids.

Supplemental Trail Aids

Supplemental trail aid funds are limited to the amount generated by the 40% multiplier. Prior to enactment of the 1995-1997 biennial budget (1995 Wisconsin Act 27), supplemental trail aid requests that exceeded the funds available were prorated under

350.12 (4) (br). Separate legislation was required to increase the amount of funds available for supplemental trail aids in excess of the revenues generated by the 40% multiplier.

The 1995-1997 biennial budget removed the need for separate legislation to increase funds available for supplemental trail aids. As amended by 1995 Wisconsin Act 27, s. 350.12 (4) (br) allows DNR to either prorate supplemental trail aids payments or submit a request for additional expenditure authority to the committee under s. 13.101. Unlike typical s. 13.101 requests, requests under s. 350.12 (4) (br) do not require a finding of an emergency for committee consideration.

Analysis

By the October 1, 1996 application deadline, DNR received requests for supplemental trail aids in excess of available funds. Because DNR anticipated such a situation, the department requested that the Joint Committee on Finance take action under s. 350.12 (4) (br) at its September 1996 meeting. Action was taken, and funding available for supplemental aids was increased by \$133,000, for a total of \$1,036,200.

Costs eligible for supplemental aid equal approximately \$1.9 million. With the current funds available, supplemental aid payments are prorated, resulting in a proration rate of cost reimbursement of 53.8%. Without the additional \$133,000, supplemental payments would have been prorated at a rate of 46.9%.

Since the creation of the 40% multiplier, supplemental trail aids payments have reimbursed at least 70% of county and state trail maintenance costs exceeding the \$200 maximum per mile per year. The good snowmobiling conditions and accompanying high use during the 1995-1996 snowmobiling season required frequent maintenance of trails. As a result, costs eligible for reimbursement exceed available funds.

After satisfying the basic trail maintenance requests (\$200 maximum per mile), trail project requests approved by the Snowmobile Recreation Council, and \$1,036,200 in supplemental payments, the snowmobile gas tax trail aids appropriation has a remaining balance of \$80,000. In past years, this money would have been carried over for trail development and rehabilitation projects in subsequent fiscal years.

However, this year's heavy snowfall and accompanying high use of trails in the northern part of the state has placed volunteer snowmobile clubs in several counties in a difficult financial situation. Many of these clubs utilized reserve funds to meet last year's trail maintenance needs. As a result of the relatively low reimbursement rate,

Members, Joint Committee on Finance
March 27, 1997
Page 3

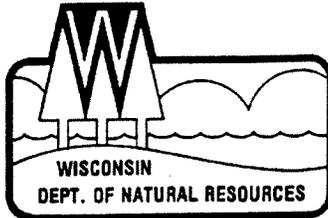
these clubs could not afford to keep pace with trail maintenance demands and were prepared to close several miles of trail if financial assistance was not received.

Due to the importance of the snowmobile trail network to the economy of northern Wisconsin, the department acted quickly to release the \$80,000 to the counties indicating the most need. The short timetable did not allow the department to make this request to the Joint Committee on Finance until after the funds were paid out. The requested increase in funds available for supplemental trail aids does not require additional expenditure authority. The current FY97 expenditure authority of \$3,042,800 under appropriation s. 20.370 (5) (cs) is adequate because no increase in total funds is involved.

Recommendation

Approve the request.

Prepared by: Kirsten Grinde
266-7973



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

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February 14, 1997

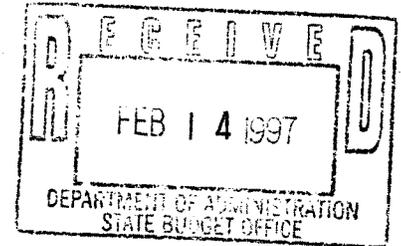
IN REPLY REFER TO: 9310

Honorable Brian Burke, Co-Chair
Joint Committee on Finance
119 Martin Luther King, Jr. Blvd.
Suite LL1

Honorable Scott Jensen
Joint Committee on Finance
315 North
State Capitol

SUBJECT: Emergency Snowmobile Supplemental Trail Aids

Attn: Committee Secretary, Daniel Caucutt
Division of Executive Budget and Finance, 10th Floor
Administration Building
101 E. Wilson Street



Brian *Scott*
Dear Senator Burke and Representative Jensen;

Request

The Department of Natural Resources requests approval to supplement the expenditure amount of the gas tax multiplier specified in s. 350.12 (4) (bg), Stats., within appropriation 20.370 (5) (cs) by \$80,000. No additional expenditure authority is needed; the Department would utilize existing spending authority within that same appropriation resulting from unobligated balances after purposes specified for the appropriation have been funded. If approved, this request will allow the Department to provide an additional \$80,000 for supplemental trail aid payments targeted to northern counties with volunteer snowmobile clubs facing financial difficulties because of the unusual snowfall amounts and excessive grooming required this winter and last winter.

This request is being made under the authority of s. 350.12 (4) (br), Stats., which allows the Department to request the Joint Committee on Finance to take action under s. 13.101 without the requirement of finding of an emergency under s. 13.101 (3) (a) 1. Given the urgency of the need for emergency supplemental trail aids, the Department is making this request subsequent to providing the emergency funding, after discussions with the Legislative Fiscal Bureau and the Department of Administration on the procedural mechanism to provide the funds in a timely manner.

Approval of this request will enable the Department to provide snowmobile clubs in northern counties with additional emergency funding to help them continue their trail maintenance efforts through the end of the season. Without approval, this funding will have to be considered an encumbrance on the FY 1997-98 initial appropriation for supplemental trail aids, calculated pursuant to s. 25.29(1)(d)2., Wis. Stats.



Background

Appropriation 20.370 (5) (cs) provides funding from the motor fuel tax specified under s. 25.29 (1) (d) for a variety of snowmobile projects, including snowmobile trail maintenance. Spending authority for this continuing appropriation is \$3,204,200 for FY 96 and \$3,042,800 for FY 97, with an additional amount of \$151,000 in FY 97 that lapsed from the previous year. Within appropriation 20.370 (5) (cs), an amount is set aside specifically for supplemental trail aid payments to the Department or a county for trail maintenance costs incurred in the previous fiscal year that exceed the maximum of \$200 per mile. This amount is equal to the amount generated by the gas tax multiplier of 40% (s. 25.29 (d) 2.), and for FY 97 is \$903,200. This funding calculation is specified in s. 350.12 (4) (bg), Wis. Stats.

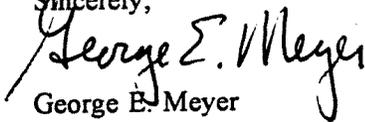
The Department is allowed to request action by the Joint Committee on Finance under s. 350.12 (4) (br) to increase supplemental trail aid payments from appropriation 20.370 (5) (cs) utilizing funds not committed by the Snowmobile Recreation Council to snowmobile projects. At the September, 1996 meeting of the Joint Committee on Finance, the Committee approved a Department request for an increase of \$133,000 for supplemental trail aids.

In most years, funds committed to snowmobile projects are not fully utilized either because the projects cost less than the amount committed, or they are not carried out as planned. These funds revert back to appropriation 20.370 (5) (cs), and are generally used to help fund projects the following year. In FY 97, the Department has identified at least \$80,000 of unutilized project funds that can be used for additional emergency supplemental trail aids to provide to snowmobile clubs to enable trail grooming to continue through the remainder of the 1996 - 97 snowmobiling season.

After discussions with the Legislative Fiscal Bureau and the Department of Administration, the Department of Natural Resources is providing the funding for the snowmobile clubs now to permit the funds to be used in a timely manner, and subsequently requesting the approval of the Joint Committee on Finance for the transfer of the funds within appropriation 20.370 (5) (cs) for use as supplemental trail aids, under the provision in s. 350.12 (4) (br), Wis. Stats.

Thank you for your consideration of this request.

Sincerely,



George E. Meyer
Secretary

- c: Members Of Joint Committee On Finance
Bob Lang - LFB
Darrell Bazzell - AD/5
Herb Zimmerman - FN/1
Dave Schmiedicke - DOA
Craig Karr - AD/5
Joe Polasek - MB/5



Association of Wisconsin Snowmobile Clubs, Inc.

P.O. BOX 1029 • NEENAH, WIS. 54957-0929 • (414) 725-9133

March 27, 1997

HAND-DELIVERED

State Senator Brian Burke
Co-Chairman, Joint Finance Committee
100 N. Hamilton Street, Room 302
Madison, WI 53703

State Representative Scott Jensen
Co-Chairman, Joint Finance Committee
Room 315 North
State Capitol Building
Madison, WI 53703

RE: Emergency Snowmobile Trail Appropriation (\$80,000)

Dear Committee Chairmen:

As President of the Association of Wisconsin Snowmobile Clubs, Inc., I would like to endorse the joint request of the Wisconsin Departments of Administration and Natural Resources for the \$80,000 emergency expenditure which was forwarded to Wisconsin's snowmobile clubs in February to fund the snowmobile trail upkeep demands of the extraordinary snowfall season. We were deeply involved in the development of this emergency aid package. As a Wisconsin citizen, it was truly a delight to witness how fast Wisconsin government can respond to a crisis.

Thank you very much for your consideration of this matter.

Sincerely,

Bill Pfaff, President

cc: Members, Joint Finance Committee

United We Trail — Divided We Fall



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

March 27, 1997

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Justice--Section 13.10 Request for Supplemental Funding for Legal Expenses--
Agenda Item V

The Department of Justice (DOJ) requests a supplement of \$447,000 GPR from the Committee's appropriation (20.865(4)(a)) to offset an estimated shortfall in the Department's legal expenses appropriation (20.455(1)(d)).

BACKGROUND

Under current law, payment for legal expenses incurred by DOJ in the prosecution or defense of any action or proceeding in which the state may be a party or may have an interest is provided through a sum certain, biennial appropriation. The appropriation, commonly referred to as the "case account," is controlled by three statutory requirements: (1) the expense must be in, or actually necessary to, the prosecution or defense of a state case or proceeding; (2) the expense incurred must be such that it would not have been incurred in the absence of the case or proceeding; and (3) the expense must not be provided for by another appropriation.

Expenses charged to the case account include: (1) contracts with expert witnesses; (2) travel expenses of assistant attorneys general to prepare for and attend trials; (3) expenses for transcripts and court fees; (4) telecommunication costs; (5) the cost of computerized research services; (6) postage and freight costs; and (7) miscellaneous expenses such as building space, equipment and car rental charges.

In the 1981-83 biennial budget, the legal expenses appropriation was converted from a sum sufficient appropriation to a biennial, sum certain appropriation. In 1987, the appropriation was converted to an annual appropriation, but returned to biennial in 1989.

Since the conversion from a sum sufficient appropriation, requests for additional funding have been common. Between 1982 and December, 1992, the Department received seven funding supplements from the Joint Committee on Finance. The next case account request by DOJ was not until November 19, 1996, at which time \$600,000 was requested to offset an estimated legal expense deficit of \$619,000. The Committee considered the request at the December 16, 1996, meeting. Instead of fully funding the projected deficit, the Committee approved the use of \$220,000 PR that DOJ had collected from multi-state settlement cases that were decided prior to this biennium. In addition, a supplement of \$92,800 from the Committee's appropriation was approved to pay outstanding purchase orders. Based on monthly expenditures, it was expected that the approved supplement would fund expenses into March.

ANALYSIS

Total 1995-97 funding available under DOJ's legal expense account is \$2,228,800, which includes: (a) \$1,797,600 under the biennial appropriation for legal expenses; (b) \$118,400 that was carried over for expenses incurred in 1994-95, but paid in this biennium; and (c) \$312,800 that was made available in supplemental funding at the December, 1996, s. 13.10 meeting. Of the amount available, \$1,186,600 was spent in 1995-96 (including the \$118,400). Therefore, the total amount available for case account expenses in 1996-97 is \$1,042,200. Expenditures through February 28, 1997, totalled \$795,900, and the Department estimates another \$693,800 (including \$112,800 in encumbered funds on February 28) for total expenditures of \$1,489,700. The table below indicates DOJ's projected case account deficit.

Biennial Appropriation	\$1,797,600
Carry Over from 1994-95	118,400
Supplemental Funds	<u>312,800</u>
Total Available	\$2,228,800
1995-96 Expenditures	-1,186,600
1996-97 DOJ Projected Expenditures	<u>-1,489,700</u>
Total Expenditures	-2,676,300
Projected Deficit	-\$447,500

As of February 28, 1997, \$133,500 was available in uncommitted funds for legal expenses for the remainder of the year. However, DOJ officials indicate that, in order to pay current operating expenses, they have delayed encumbering funds for experts who have been hired and paying some bills for services already provided. Therefore, the amount of uncommitted funds appears to overstate the amount the Department has to pay ongoing expenses.

DOJ's current biennial deficit projection is \$141,300 higher than projected in November, 1996. According to DOJ, this increased deficit results mainly from additional costs of expert

witnesses, supplies and services and data processing. These higher costs are partially offset by lower estimates for filing and court reporter fees, as shown below.

DOJ Deficit Projections

	November <u>Estimate</u>	February <u>Estimate</u>	<u>Difference</u>
Experts	\$660,000	\$757,600	\$97,600
Filing & Court Reporter Fees	297,500	240,000	-57,500
Data Processing	110,700	136,000	25,300
Travel	109,300	109,300	0
Telecommunications	46,000	46,000	0
Postage & Freight	49,500	54,500	5,000
Other Sup & Serv	<u>75,400</u>	<u>146,300</u>	<u>70,900</u>
 Total	 \$1,348,400	 \$1,489,700	 \$141,300

DOJ officials indicate that the higher estimate of expert witness costs is mainly due to two things: (1) several new cases, not anticipated in December, which now have trial dates set for this fiscal year or shortly thereafter and will require experts before June 30, 1997; and (2) cases which are expected to involve higher expert witness costs than originally estimated. It should be noted that DOJ's expert witness expenses to date include \$6,000 which has been paid, under contract, to a documents examiner in the Department's litigation against the tobacco industry. However, the Department has indicated that no state funds will be used in that litigation. Instead, the Department expects to use funds donated from anti-tobacco interest groups to cover the state's cost of the litigation. (The Department has a commitment of \$150,000 from the American Cancer Society and expects to receive at least \$400,000 in donations.) According to DOJ, the documents examiner expenses were paid from the legal expenses account because no donated funds have as yet been received; however, when donated funds do become available, the expense will be transferred to DOJ's gifts and grants appropriation where the donations will be deposited. Therefore, for the purposes of this request, the \$6,000 should be reduced from DOJ's estimate of expert witness costs.

DOJ has identified payments of \$199,000 under existing contracts that are anticipated to come due this fiscal year. In addition, the Department has identified another \$160,000 for cases in which experts have been hired, but no contract has been signed and cases in which it is anticipated that expert expenses will be incurred this fiscal year, but the experts have not yet been hired. This would mean additional expert expenses of \$359,000 this fiscal year.

According to the Department, data processing and supplies and services costs were also underestimated in its November request. As of March 1, 1997, \$82,400 had been expended for supplies and services. If this is annualized, expenditures would total \$123,600 in 1996-97,

compared to the \$75,400 estimated in November. In addition, DOJ officials indicate that \$21,000 in leasing expenses were not taken into account in November. These expenses were encumbered at the beginning of the year, but later unencumbered to free funds to pay operating expenses. DOJ also indicates that certain printing costs, delayed due to lack of funds, were not included in the Department's November cost estimates. Further, the newly-identified cases will involve additional supplies and services costs that were not included in the previous estimates.

These figures would indicate that 1996-97 case account costs have increased since November; however, there is some question as to what portion of the increased expenses will be realized in the next three months. Some of the cases for which expert expenses have been identified may be settled before trial and not require experts, while other costs may be delayed until next fiscal year. DOJ officials indicate that they have already discounted expert costs to take these factors into account. However, given the unpredictability of these expenses, it is difficult to determine the accuracy of the estimate. In addition, while DOJ's increased estimates for data processing and supplies and services appear reasonable based on the information provided, given the extent of the increases in DOJ's estimate over only a two-month period, it may be more prudent to assess such increases in June when more information is available.

While predictions of actual expenditures are difficult, it is clear that funds for DOJ legal expenses are virtually depleted. In December, when the Committee approved \$312,800 in supplemental funding, it was clear that in order for DOJ to continue providing legal services for the remainder of the fiscal year, the remaining case account deficit would have to be addressed at a later date. DOJ currently has uncommitted funds to continue paying expenses through the end of March and into April. If supplemental funds are not received, DOJ will no longer be able to hire experts, travel to depositions, pay for transcripts or use automated legal research tools. According to DOJ, this would seriously curtail their ability to represent the state in legal matters, which could end up costing the state in settlement moneys resulting from lost cases.

The Committee could provide the supplement requested by DOJ, adjusted for the \$6,000 spent for the tobacco litigation (\$441,000). However, given the uncertainty in expenses, the Committee could consider a reduced supplement in the amount of \$306,200, which would fund the remaining balance of the deficit identified in November. This amount of funding should be sufficient for DOJ to pay legal expenses into June and possibly through the end of the fiscal year. If additional funds are needed, DOJ could submit a request to the Committee for the June, s. 13.10 meeting, at which time more complete information would be available to determine the actual amount of funding required.

Another option would be for the Committee to approve additional funds only for the actual contracts DOJ has entered into (\$199,000). DOJ could use funds currently available to pay for travel, supplies and services, data processing and telecommunication costs. However, it is likely that DOJ will incur expert witness expenses above those for which contracts currently exist yet this fiscal year. Further, the funding currently available in the appropriation is not likely to cover all of the other legal expenses for the remainder of the year. Therefore, under this alternative,

it could be expected that DOJ would need to submit another request for supplemental funding in June.

The Finance Committee has \$811,700 in its unreserved balance. Therefore, the Committee has adequate funding to provide a supplement for DOJ legal expenses and still have a balance in unreserved funding.

ALTERNATIVES

1. Approve the Department's request for supplemental funds, less \$6,000, to reflect GPR expenditures which will be transferred to a program revenue appropriation when the funds become available. Funding from the Committee's appropriation would total \$441,000.
2. Approve a reduced supplement of \$306,200 from the Committee's appropriation to fund the deficit identified by the Department in November.
3. Approve a reduced supplement of \$199,000 from the Committee's appropriation to provide funding to cover contracts for expert witnesses which the Department has entered into.
4. Deny the request.

Prepared by: Carri Jakel

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AYE 7 NO 7 ABS 2

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