

1 **AN ACT** *to amend* 25.40 (3) (a); and *to create* 20.370 (5) (ap), 20.855 (4) (v), 23.176,
 2 25.29 (1) (dr), 25.29 (1r), 25.40 (3) (b) 17. and 227.01 (13) (zy) of the statutes;
 3 **relating to:** nonmotorized trail maintenance, granting rule-making authority, and
 4 making appropriations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on Enhancing Recreational Trails for Non-Motorized Use. The draft:

Funding. Authorizes the Department of Natural Resources (DNR) to expend funds in a nonmotorized trail maintenance program. The funding mechanism consists of segregated funds from the conservation fund and is a continuing appropriation, allowing DNR to retain and expend in future fiscal years any funds that are not expended in the current fiscal year. The amount in the appropriation is either \$10 million or 1% of the amount of the motor fuel tax collected in the prior fiscal year, whichever is less.

Nonmotorized Trails Maintenance and Use Program. Creates the nonmotorized trails maintenance and use program in DNR. Funding for the program is described above. The DNR is directed to implement the program by promulgating rules necessary for the program and for distributing the funds for trail maintenance and use. The funds are distributed: (1) directly to state agencies; and (2) through a grant program to local units of government and to nonprofit organizations for nonmotorized trails.

Trails are an important part of Wisconsin’s effort to increase transportation options to state residents and have a major impact on the state’s multi-billion dollar tourism industry, attracting many visitors from outside of the state. Improved trails may decrease overall traffic congestion by giving commuters another option when traveling. Increased commuter trail use may also reduce overall travel time and fuel consumption.

One of the issues that is common to all trails is the ongoing need for maintenance. Without maintenance, or with insufficient maintenance,

trails may become unusable. At a minimum, when trails are eroded, rutted, overgrown, or otherwise deteriorate, trail use is likely to decrease significantly.

The Warren Knowles – Gaylord Nelson stewardship program provides a significant source of funds for acquisition of land for trail corridors, and funding for initial development of trails, but without funding for maintenance, a purpose for which the funds are not currently available. With respect to maintenance, the special committee identified a disparity between trails used for motorized and nonmotorized activities. Snowmobiles and all-terrain vehicles each have a source of funding for trail maintenance in the registration fees paid for the vehicles, and from motor vehicle fuel tax transfers. There is no comparable source of revenue for maintenance of nonmotorized trails. Although the state has a trail pass, it is required for the use of only a limited number of trails, and does not produce enough revenue for more than a very basic trail maintenance program.

With the current economic conditions, nonmotorized trails are becoming increasingly significant as a method of transportation that can be used for getting to work, school, recreation, and shopping. These trails provide many benefits, such as reducing the use of nonrenewable resources; giving the trail user an opportunity to reduce personal transportation costs compared to driving a motor vehicle; reducing traffic congestion, noise and air pollution; and delaying the need for future road and bridge projects. These economic benefits are likely to increase over time. Nonmotorized trails also provide social benefits as people travel the trails together and gather at destinations. With regard to tourism, one of the state's major industries and attractions, resident and nonresident users of these trails increase revenue for the state and local economies. Finally, the use of trails for nonmotorized activities may provide health benefits, and potential reduced health care costs, by increasing the availability of various methods to exercise, and encouraging lifelong exercise that is a benefit to individuals as well as the entire state.

The special committee identified an urgent need for a consistent, dependable, and sufficient funding source for trail maintenance that relates to the transportation benefits of the nonmotorized trails. The committee identified the motor vehicle fuel tax revenues which are deposited in the transportation fund as an appropriate source of nonmotorized trail funding. Some of the use of nonmotorized trails may be a substitute for the use of gasoline or diesel-powered vehicles. By using motor vehicle tax revenues for trail maintenance, the trails can be improved and the advantages of the trails as a substitute for motor

vehicle transport can be enhanced. In general, this funding mechanism will ensure the continued viability of nonmotorized trails in this state.

According to information provided to the special committee, the current costs of nonmotorized recreation and transportation-trail maintenance equals or exceeds the funding amount provided for in the draft and these costs will only climb with increased trail usage and with ongoing and future increased construction of trails.

In addition to the need for trail maintenance, it is important that trails for nonmotorized uses be publicized, so that potential users can find the trails and trail access points, learn the facilities that are accessible from the trail, and plan activities on the nonmotorized trail. Thus, the draft includes a provision for education and public information about nonmotorized trails.

Additional information is contained in the NOTES to individual SECTIONS of the draft.

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the
2 following amounts for the purposes indicated:

		2009-10	2010-11
3			
4	20.370 Natural Resources, Department of		
5	(5) CONSERVATION AIDS		
6	(ap) Resource aids -- nonmotorized		
7	trails	SEG C 10,000,000	10,000,000

NOTE: This appropriation authorizes DNR to expend funds for nonmotorized trail maintenance. The appropriation consists of segregated funds from the conservation fund and is a continuing appropriation, allowing DNR to retain and expend in future fiscal years any funds that are not expended in the current one. Although the amount in the schedule for the appropriation is \$10 million per year, the actual amount per fiscal year is either \$10 million or 1% of the amount of the motor vehicle fuel tax collected in the prior fiscal year, whichever is less. See s. 25.29 (1) (dr), stats., created by this draft.

1 **20.855 Miscellaneous Appropriations**

2 (4) TAX, ASSISTANCE AND TRANSFER PAYMENTS

3 (b) Transfer to conservation fund ---

4 nonmotorized trail formula SEG S 10,000,000 10,000,000

NOTE: This appropriation transfers the amount of the nonmotorized trail appropriation from the transportation fund to the conservation fund. As in the previous appropriation, the \$10 million amount is actually capped by the formula, which transfers either \$10 million or 1% of the amount of the motor vehicle tax collected in the prior fiscal year, whichever is less.

5 **SECTION 2.** 20.370 (5) (ap) of the statutes is created to read:

6 20.370 (5) (ap) *Resource aids -- nonmotorized trails.* As a continuing appropriation
7 from the nonmotorized trail account in the conservation fund, the amounts in the schedule for
8 the maintenance and use program for nonmotorized uses of public trails under s. 23.176.

9 **SECTION 3.** 20.855 (4) (v) of the statutes is created to read:

10 20.855 (4) (v) *Transfer to conservation fund -- nonmotorized trail formula.* On July
11 1 of each fiscal year, from the transportation fund, a sum sufficient in an amount equal to the
12 amount to be paid into the conservation fund as determined under s. 25.29 (1) (dr).

NOTE: Provides for transfer of the amount from the transportation fund to the conservation fund on July 1 of each fiscal year.

13 **SECTION 4.** 23.176 of the statutes is created to read:

14 **23.176 Nonmotorized trails; maintenance and use program. (1) DEFINITIONS.** In this
15 section: (a) "Local governmental unit" means a political subdivision or a special purpose
16 district.

17 (b) "Nonmotorized trail" means a trail that is constructed, maintained, and used
18 primarily for activities that do not involve travel by means of a motorized vehicle, except a

1 trail where motorized vehicles are used to enhance the accessibility of the trail or a trail where
2 snowmobiles may be used when the trail is snow-covered.

3 (c) "Nonprofit organization for nonmotorized trails" means a nonprofit corporation, a
4 charitable trust, or other nonprofit association whose purposes include the acquisition,
5 ownership, development, maintenance, or other similar benefits to nonmotorized trails and
6 that is described in section 501 (c) (3) of the internal revenue code and is exempt from federal
7 income tax under section 501 (a) of the internal revenue code.

8 (d) "Trail" means a developed linear surface that is maintained and signed for use and
9 is not physically connected to an improved roadway for the majority of its length.

10 (2) PROGRAM ESTABLISHED IN DEPARTMENT; RULES. (a) There is established in the
11 department a nonmotorized trail maintenance and use program to provide funding of
12 maintenance and use enhancement for nonmotorized trails throughout the state.

13 (b) The department, in consultation with any council created to advise the department
14 regarding nonmotorized trails, shall implement and administer this program by promulgating
15 the rules necessary for the program and distributing the funds.

16 (3) ELIGIBILITY FOR FUNDING. (a) The following entities are eligible for funding under
17 the program:

- 18 1. The department.
- 19 2. A state agency other than the department that owns or manages a nonmotorized trail.
- 20 3. A nonprofit organization for nonmotorized trails that owns or has responsibility to
21 maintain a nonmotorized trail.

- 22 4. An organization or volunteer group that has a formal agreement with a nonprofit
23 organization for nonmotorized trails to maintain a nonmotorized trail owned by the nonprofit
24 organization for nonmotorized trails.

1 5. A local governmental unit with jurisdiction of a nonmotorized trail.

2 6. An organization or volunteer group that has a formal agreement with a political
3 subdivision to maintain a nonmotorized trail owned by the political subdivision.

4 (b) Any nonmotorized trail that qualifies for maintenance funding or use enhancement
5 funding under this section must be available to the public. In determining whether a trail is
6 available to the public, the department shall review the fee, if any, charged for use of the trail,
7 to determine if the fee is reasonable. A fee is reasonable if it does not exceed the fee to use
8 state trails with a state trail pass, except that a higher fee may be reasonable if the specific use
9 of the trail requires a higher level of maintenance.

10 **(4) TRAIL DESIGN AND MAINTENANCE STANDARDS; COORDINATION WITH TRAIL PLANS.** The
11 department shall prepare comprehensive statewide nonmotorized trail design and
12 maintenance best practice standards. The standards shall include methods for construction of
13 a nonmotorized trail so as to reduce overall maintenance costs for the trail and shall include
14 methods to reduce adverse environmental effects of the trail. The department shall coordinate
15 the standards with the state network trails plan and any local trail plans. The department shall
16 develop the standards under this subsection as soon as possible after the effective date of this
17 subsection ... [LRB inserts date], and shall revise the standards periodically, as necessary, to
18 address current trail maintenance and use issues.

19 **(5) ELIGIBILITY FOR MAINTENANCE FUNDING; PRIORITIES FOR TYPES OF TRAILS.** The
20 department shall evaluate all nonmotorized trail maintenance needs on a statewide basis and
21 shall establish a system of priorities for allocation of funds available under this section. In
22 developing these priorities, the department shall consider the types of nonmotorized trails
23 listed in this subsection, as well as any other nonmotorized trails that have critical and

1 substantial maintenance needs. The department is not required to use the order of the
2 paragraphs in this subsection in developing its priority list. The priority list shall include:

3 (a) Connecting trails.

4 (b) Trails with substantial commuter potential, such as those near population centers,
5 those located in or near neighborhoods with access to trails, and those located along roads or
6 highways that lead to workplaces.

7 (c) Trails that are near to tourist activities.

8 (d) Trails with substantial existing use and expected increase in use.

9 (e) Maintenance projects for longer trail segments.

10 (f) Trails that allow for more than one nonmotorized trail use on the same trail.

11 (g) Water trails.

12 (h) Equestrian trails.

13 (i) Long-distance hiking trails.

14 (j) Recreational trails that are part of a larger park or green space.

15 (k) Cross-country ski trails.

16 **(6) ELIGIBILITY FOR MAINTENANCE FUNDING; PRIORITIES FOR MAINTENANCE NEEDS.** The
17 department shall establish a system of priorities for nonmotorized trail maintenance funding
18 under this section based on the type of maintenance necessary on a particular trail or trail
19 segment and the urgency of the maintenance. In developing these priorities, the department
20 shall consider the maintenance needs listed in this subsection, as well as any other related
21 maintenance issues. The department is not required to use the order of the paragraphs in this
22 subsection in developing its priority list. The priority list shall include:

23 (a) Routine maintenance of nonmotorized trails, including the trail surface and the
24 facilities associated with the trail.

1 (b) Rehabilitation and reconstruction of trails, focusing on maintenance needs that will
2 improve user experience and safety or that relate to deferred maintenance.

3 (c) Damage caused by use of the trail by unauthorized trail users.

4 (d) Damage caused by erosion or by other natural causes.

5 (e) Maintenance of facilities, including those at the trailhead.

6 (g) Maintenance or reconstruction necessary due to the changing uses of trails.

7 (h) Maintenance of trails that have multi-season uses, including snow removal for trails
8 that serve commuters.

9 (i) Maintenance that conforms with the standards in sub. (4).

10 **(7) ELIGIBILITY FOR TRAIL USE FUNDING; PRIORITIES FOR TYPES OF USES.** The department
11 shall provide funding for maintenance of facilities associated with nonmotorized trails and
12 methods of assisting individual trail users, and shall establish priorities for trail use funding.
13 The department shall consider the trail use issues listed in this subsection, as well as any other
14 trail use issues. The department is not required to use the order of the paragraphs in this
15 subsection in developing its priority list. The priority list shall include:

16 (a) Making trails and trail facilities accessible.

17 (b) Providing for cross-country ski trail grooming.

18 (c) Modifying bicycle trail surfacing to make it more appropriate for the type of
19 bicycling on that trail.

20 (d) Providing parking for trail users.

21 (e) Providing information to trail users by conducting, and publishing the results of,
22 research on trail usage and by providing maps, pamphlets, information on the Internet,
23 directional signs, and informational signs.

1 (f) Conducting education programs and promotions regarding trail use, such as “bike
2 to work week”, location of trails and trail facilities, safety, courtesy, and hours of operation.

3 (g) Enhancing water trails, including construction and maintenance of portages,
4 primitive campsites, and directional signs.

5 (h) Modifications to trails to allow for multiple uses.

6 **(8) GRANT PROGRAM.** (a) The department shall determine:

7 1. The amount of funding to be allocated for the various purposes under this section.

8 2. The amount of funding to be provided to eligible grantees.

9 3. The amount of required cost-sharing, and the circumstances in which a grant may
10 be made without a cost-share requirement for the recipient, such as a mileage payment based
11 on trail type, uses, and surfacing type.

12 4. The maximum funding available to the department for state trails in any fiscal year.
13 This maximum may be either a specific dollar amount or an amount determined by the
14 priorities established under this section.

15 5. The terms and conditions for receipt of a grant or distribution of funds under this
16 section.

17 6. A methodology in the grant program for assuring a reasonable year-to-year stability
18 in the grant amounts, if such consistency is appropriate.

19 7. The timing and frequency of grant payments.

20 8. The extent to which grant recipients must conform their maintenance activities with
21 the standards under sub. (4).

22 9. The conditions applicable to a local governmental unit or a nonprofit organization
23 for nonmotorized trails that provides grant funds to an organization or volunteer group that
24 does the maintenance.

1 (b) Grants may not include costs or reimbursement for any of the following:

2 1. Equipment.

3 2. Law enforcement activities on a trail.

4 3. Administrative or other overhead costs, except as specifically allowed by the
5 department as part of the grant recipient's cost-share.

6 (c) The department may not make a grant under this section unless the grant recipient
7 enters into an agreement with the department to maintain or increase its aggregate
8 expenditures from other sources for nonmotorized trail maintenance at or above the average
9 level of such expenditures in its 2 prior fiscal years.

10 (d) The department shall prepare an annual report summarizing the distribution of funds
11 under the grant program, and shall distribute copies to the legislature under s. 13.172 (2).

NOTE: Creates the nonmotorized trails maintenance and use program in DNR. Funding for this program is from the conservation fund, consisting of moneys transferred from the transportation fund. The funding for each fiscal year is \$10 million or 1% of the motor vehicle fuel tax collections each fiscal year, whichever is less.

DNR is directed to implement the program by promulgating rules necessary for the program and for distributing the funds for trail maintenance and use. The funds are distributed directly to state agencies (primarily the DNR and the Department of Transportation) and by means of a grant program to local governmental units and to nonprofit organizations for nonmotorized trails. The draft establishes a basic structure that focuses primarily on the priorities for expenditure of trail maintenance and use funds.

Grants under the nonmotorized trail program are available to, among others, "local governmental units", which is defined in the draft as a political subdivision (city, village, town, or county) or a special purpose district. "Special purpose district" does not have a specific defined content, but includes such entities as lake districts, sewer and water districts, school districts, technical college districts, and drainage districts. To the extent that these special purpose districts own and maintain trails, they will be eligible for grants under the program.

The extensive lists of priorities and issues in the program are intended to give a sense of the urgency and necessity of a nonmotorized trail maintenance and use program, to ensure the continued viability of the nonmotorized trails in this state. However, the program is open-ended and allows DNR to identify additional priorities and issues related to maintenance and use of nonmotorized trails, and to incorporate them into the program.

1 **SECTION 5.** 25.29 (1) (dr) of the statutes is created to read:

2 25.29 (1) (dr) For fiscal year 2009–10 and each fiscal year thereafter, an amount equal
3 to the nonmotorized trail transfer payment. The nonmotorized trail transfer payment is one
4 percent of the amount of the motor vehicle fuel tax collected under s. 78.01 for the prior fiscal
5 year, or \$10,000,000, whichever is less.

NOTE: Provides that the conservation fund includes the moneys transferred from the transportation fund for the trail maintenance and use program. See the NOTES to ss. 20.370 and 20.855, stats., created by this draft.

6 **SECTION 6.** 25.29 (1r) of the statutes is created to read:

7 25.29 (1r) There is established in the conservation fund a separate account that is
8 designated the nonmotorized trail account, that consists of the moneys paid into the
9 conservation fund under s. 20.855 (4) (v). No moneys that are deposited in the nonmotorized
10 trail account in the conservation fund may be transferred from the nonmotorized trail account
11 to any other fund or appropriation account in any other fund.

NOTE: Section 25.29 (1r):

1. Creates a separate account within the conservation fund which is designated the nonmotorized trail account. This account consists of the moneys for trail maintenance and use from the transportation fund.

2. Specifies that no moneys that are deposited in the separate nonmotorized trail account may be transferred from this separate account to any other fund or appropriation account in any other fund.

Any additional funds available to DNR for trail maintenance can also be placed into the nonmotorized trail account by the addition of an appropriate cross-reference.

1 **SECTION 7.** 25.40 (3) (a) of the statutes is amended to read:

2 25.40 (3) (a) Except as provided in s. ss. 20.855 (4) (v) and 85.52 (3) (cm), beginning
3 on July 1, 2007, no moneys deposited in the transportation fund that are not appropriated may
4 be transferred from the transportation fund to any other fund or appropriation account in any
5 other fund.

NOTE: Creates an exception from the limitation on transfer of funds
 from the transportation fund to any other fund. This exception is for the
 nonmotorized trail maintenance funding that is transferred to the
 conservation fund.

6 **SECTION 8.** 25.40 (3) (b) 17. of the statutes is created to read:

7 25.40 (3) (b) 17. The nonmotorized trail account in the conservation fund.

NOTE: This provision is also part of the exemption from the restriction
 on transferring funds from the conservation fund to any other
 appropriation or fund. See the NOTE to s. 25.40 (3) (a), stats., amended
 by this draft.

8 **SECTION 9.** 227.01 (13) (zy) of the statutes is created to read:

9 227.01 (13) (zy) Nonmotorized trail design and maintenance standards under s.
10 232.176 (4).

NOTE: Provides that DNR is not required to promulgate nonmotorized
 trail design and maintenance standards as administrative rules.

11 **SECTION 10. Nonstatutory provisions; natural resources.**

12 (1) ADMINISTRATION OF NONMOTORIZED TRAIL MAINTENANCE GRANTS. The authorized
13 FTE positions for the department of natural resources are increased by 1.0 SEG positions on
14 July 1, 2009, to be funded from the appropriation under section 25.29 (1) (dr) of the statutes,
15 as created by this act, for the purpose of administering the nonmotorized trail maintenance
16 grant program.

NOTE: Authorizes a full-time equivalent position for the DNR to administer the nonmotorized trail maintenance grant program.

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(END)