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## FISCAL IMPACT REPORT

SPONSOR: Larranaga DATE TYPED: 2/26/03 HB 250/aHJC

SHORT TITLE: Commercial Driver's License Changes SB \_\_\_\_\_

ANALYST: Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		Significant	Recurring	Federal

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates SB 242 & SB 262.  
Relates to other bills amending the same section of the law.

### SOURCES OF INFORMATION

Responses Received From  
State Highway and Transportation Department (SHTD)  
Taxation and Revenue Department (TRD)  
Department of Public Safety (DPS)  
Administrative Office of the District Attorneys (ADA)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment removes all references dealing with the creation of a presumption that a person under twenty-one years of age is intoxicated with a blood or breath alcohol concentration of .02. Also, the HJC amendment removes the newly added requirement

that a breath test machine certified by the scientific laboratory of DOH is presumed to measure the breath sample based on the grams of alcohol in two hundred ten liters of breath.

The HJC amendment also removes the discretion given to TRD to hold hearings on the telephone.

In addition, the HJC amendment removes language describing a train's warning signal. The removed wording explained that the train's warning signal indicated how close the train was although it was not in sight.

### Synopsis of Original Bill

House Bill 250 provides sanctions for drivers of commercial motor vehicles who have been convicted of railroad highway grade crossing violations and adds additional requirements for railroad highway crossings. Additionally, HB 250 increases the penalties for violating out-of-service orders. HB 250 also establishes "per se" DWI violations for individuals driving a commercial motor vehicle at point 0.04 and for individuals less than twenty-one years of age at .02.

### Significant Issues

HB 250 brings New Mexico into compliance with federal law.

The intent of HB 250 is to reduce all motor vehicle related crashes, injuries, and deaths by requiring higher standards for drivers with commercial drivers licenses.

The only portion of HB 250 not required by federal law is the section allowing TRD to conduct administrative license revocation hearings telephonically.

### **FISCAL IMPLICATIONS**

If HB 250 is not enacted, the state will face the loss of \$8.4 million of Federal Highway funds this year. There will be a subsequent loss of \$16.8 million for each succeeding year of non-compliance.

In addition, there is the potential loss of approximately \$5.6 million from the Motor Carrier Safety Assistance Program as well as additional sanctions.

### **ADMINISTRATIVE IMPLICATIONS**

The loss of funds and sanctions imposed would have a very negative impact on SHTD, DPS and the Motor Vehicle Division of TRD.

### **DUPLICATION/RELATIONSHIP**

HB 250 duplicates SB 242 & SB 262.

HB 250 amends the same section of law, 66-8-102, as HB 40, HB 117, HB 139, HB 189, HB 249, HB 327, HB 335, HB 405, SB 16, SB 93, SB 99, SB 248, SB 261, SB 245, SB 266, and SB 341. All of these bills relate to DWI, but do not have conflicting language with HB 250.

**TECHNICAL ISSUES**

DPS notes the language in Section 10, page 8, paragraph C, paragraphs 1 thru 3 attempts to establish “per se” blood alcohol concentration violations. Unfortunately, in Section 12 of the amendment to NMSA Section 66-8-110, the drafter reinserted language removed previously with respect to presumptions. When a “per se” limit is established, any language in the statute with respect to presumptions must be removed because presumptions destroy the effect of the “per se” language in the statute. Presumptions can be rebutted. “Per se” limits are by definition are not supposed to be able to be rebutted. “Per se” language and presumptive language are incompatible.

**DW/njw:yr**