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FISCAL IMPACT REPORT

SPONSOR: Cisneros DATE TYPED: 02/12/03 HB _____

SHORT TITLE: Expand Reckless Driving Offenses SB 304

ANALYST: Fox-Young

APPROPRIATION

| Appropriation Contained | | Estimated Additional Impact | | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|---------|-------------------------|------------------|
| FY03 | FY04 | FY03 | FY04 | | |
| | | | Unknown | | |
| | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

- Administrative Office of the Courts (AOC)
- State Highway and Transportation Department (SHTD)
- Department of Public Safety (DPS)
- Administrative Office of the District Attorneys (AODA)
- Attorney General (AG)

SUMMARY

Synopsis of Bill

Senate Bill 304 amends NMSA 1978, § 66-8-113, “Reckless Driving,” expanding the relevant offenses to include operating a vehicle in a careless, inattentive or imprudent manner as set forth in NMSA 1978, § 66-8-114, “Careless Driving”, and resulting in the death or bodily injury of another person.

The bill repeals existing language exempting its provisions from NMSA 1978, § 31-18-13 (D), the general statute on sentencing authority.

The bill preserves the existing punishments for reckless driving.

The bill makes technical changes to the statutory language.

Significant Issues

The bill adopts the definitional language from the existing statute on careless driving. That statute prohibits operating a motor vehicle “in a careless, inattentive or imprudent manner, without due regard for the width, grade, curves, corners, traffic, weather and road conditions and all other attendant circumstances.” The bill provides that if careless driving is committed in such a way that death or great bodily injury results, the offense is elevated to reckless driving.

The Administrative Office of the District Attorneys (AODA) notes that the bill could present “double jeopardy” problems. AODA imagines the instance where an individual pleads guilty to reckless driving for an act in which another person has been killed or suffered serious bodily injury such as paralysis, amputation or severe scarring before the case can be thoroughly reviewed and charged as homicide by vehicle, great bodily injury by vehicle, vehicular manslaughter or another greater offense.

FISCAL IMPLICATIONS

AODA indicates that the need for resources for the courts, district attorneys and public defenders to dispose of cases pertaining to § 66-8-113 may decrease. Cases currently charged as felonies may be disposed of as misdemeanors.

DUPLICATION

AODA notes that 30-2-3(B) (Involuntary Manslaughter) and 66-8-101 (Homicide by Vehicle; Great Bodily Injury by Vehicle) partially duplicate the Act.

TECHNICAL ISSUES

The AG notes this bill repeals existing language exempting its provisions from NMSA 1978, § 31-18-13 (D), which is the general statute on sentencing authority. (page 2, lines 5-6) This exemption first appeared in this statute in Laws 1987, ch. 97, § 4, apparently to permit the minimum sentences specified in the current law.

AG notes that in the past, where a specific punishment has been provided outside of the criminal sentencing code, the appellate courts have resolved that problem by holding that the least possible punishment was intended. (State v. Herrera, 86 N.M. 224, 522 P.2d 76 1974)

AG further indicates that repealing this language might result in decisions to prohibit the imposition of the minimum penalties contained in this statute.

AG suggests the possibility of amending the bill to reverse the repeal of the relevant language.

JCF/njw