

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/2006
 LAST UPDATED 02/07/2006 HB 317/HJCS

SPONSOR HJC

SHORT TITLE Weight Distance Tax Penalties & Enforcement SB _____

ANALYST Moser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$0.1*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SB-333 is a duplicate of the original HB-317, and contains many of the same provisions related to fines and penalties as the HJC Substitute.

Conflicts with HB 419, SB 446 & SB 447.

REVENUE (dollars in thousands)

Estimated Revenue			Recurring Or Non-Rec	Fund Affected
FY06	FY07	FY08		
None	9,977	20,269	Recurring	Federal High- way Funds (IM, NHS, STP)
none	150 +	300 +	Recurring	Federal Aid to Motor Trans- portation Divi- sion
none	*	Similar	Recurring	State Road Fund (weight distance tax compliance)
none	*	Similar	Recurring	General Fund (Penalty As- sessments)

(Parenthesis () Indicate Expenditure Decreases)

Federal Highway Funds: The fiscal impact associated with Federal Highway Funds results from the bill's compliance with federally-mandated provisions relating to "masking" a conviction for a violation committed by a holder of a commercial drivers license (Section 6 of the HJC Substitute). In the absence of this provision, federal sanctions would withhold 5% of the state's apportionment of federal Interstate Maintenance funds, National Highway System funds, and Surface Transportation Program funds in FY07. In the second and subsequent years, the sanctions would amount to 10% of those apportionment amounts. While not absolutely guaranteed, the sanction action is considered probable and quite likely.

Federal Aid to MTD: Federal sanctions similar to those discussed above would affect existing Motor Carrier Safety Assistance Program grants. The DOT does not have precise information regarding the amounts of those grants, so this number is only approximate (5% in FY07 and 10% in FY08 and subsequent years).

* State Road Fund: The bill would be expected to have a significant eventual positive impact on weight distance tax compliance. However, since the degree of current noncompliance is not known it is difficult to forecast the weight distance tax impact. Also, other recent changes in law are expected to enhance revenue. It is difficult to attribute a particular revenue impact to a specific proposal, since this bill and other initiatives would be at work concurrently.

* State General Fund: The Motor Transportation Division has not supplied historical information to DOT on the number of Penalty Assessment citations issued for the various offenses included in the bill. MTD has suggested in the past that about 770 citations are issued per year for overweight vehicles. DOT is unable to estimate the positive fiscal impact on the State General Fund from the proposed increases in certain Penalty Assessment fees.

Portions of the fiscal impact duplicates SB-333.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Transportation (NMDOT)

Department of Public Safety (DPS)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

The House Judiciary Committee substitute for House Bill 317 raises the penalties associated with violating the weight limitations and raises the penalties associated with failing to register a motor carrier. The proposed legislation would double the graduated penalty amounts related to violating the weight limitations. This bill would also allow commercial motor carrier vehicles that are not in compliance with the weight distance requirements of the Weight Distance Tax Act to be detained until the tax is paid. The fine for failure to register a motor carrier is increased from \$100 to \$300. The fine for failure to stop at ports-of-entry is \$100 and is increased to \$250 for a second offense and \$500 for a third or subsequent offense. Fines for operating without an over-size-overweight permit are to remain at \$50 for a first offense and are to increase to \$250 for a

second offense and to \$500 for a third or subsequent offense. New penalty assessment categories are added to correlate with recent changes in federal rules and requirements related to the number of hours a commercial driver may be on duty and related to driver log books.

An exception to current vehicle length limits is proposed for a bus operating on the national network of highways. A clause related to saddle-mount vehicles is added wherein they are described as specialized equipment and are limited to not exceed 97 feet.

Numerous technical changes are made to change references to the tax identification “~~card~~” to be the tax identification “permit” and to update the statutes for past recompilation revisions.

House Judiciary Committee Substitute 317 adds a measure stating that no person “shall mask or defer imposition of judgment of a conviction of a traffic control law violation, except a parking violation, committed by a holder of commercial drivers’ license or allow a holder of a commercial driver’s license to enter a diversion program upon conviction of a traffic control law violation, except a parking violation”, Section 6, preventing “a commercial driver’s license holder’s conviction, in any motor vehicle, from appearing on the licensee’s driving record, regardless of the state in which the conviction occurred.”

The NMDOT indicates that this law and related measures are necessary for New Mexico to continue receiving its full allotment of federal highway dollars. If New Mexico does not implement the required measures, 5% of the state’s Interstate Maintenance, National Highway System and Surface Transportation Program funds could be withheld during the first year that the measures are not implemented. In subsequent years, 10% may be withheld for noncompliance. For 2007, New Mexico’s funds at risk amount to almost \$10 million. For 2008, the amount of funds at risk increases to roughly \$20 million. An additional serious concern is that commercial drivers licenses granted by states that have not implemented the required measures would not be recognized or honored in other states.

FISCAL IMPLICATIONS

The NMDOT states that aside from the positive fiscal impact to the general fund associated with increased penalty assessment fees, the likely impact this bill would have on weight distance tax and overweight permit fees compliance is of utmost importance to DOT.

SIGNIFICANT ISSUES

The majority of firms operating heavy trucks are conscientious taxpayers operating in a very competitive, highly regulated, cost-conscious environment. Tax evasion by a portion of the industry creates a “level playing field” problem for the conscientious segment of the industry. Every effort the state can make to improve compliance with tax laws and obligations serves to keep the playing field more level in this competitive industry. This bill provides many of the tools that are needed to promote tax and regulatory compliance.

Recent advances in the technological tools available to the Motor Transportation Division now allow the identification of delinquent or noncompliant taxpayers. The Taxation and Revenue Department is charged with administration of the tax, but MTD who has the only significant contact with the industry has no current authority to take action for noncompliance with tax obligations. This bill provides MTD with tools needed to assist it with and to promote tax compliance.

The House Judiciary Committee Substitute 317 adds, in Section 6 of the bill, a measure preventing the “masking” of any conviction for a violation of traffic control law by a holder of a commercial drivers’ license. The added measures are necessary in order for New Mexico to continue receiving its full allotment of federal highway dollars. If a state does not implement the required measures, federal highway dollars will likely be withheld. For 2007, the New Mexico’s funds at risk amount to almost \$10 million. For 2008, the amount of funds at risk increases to roughly \$20 million. Additionally, if New Mexico does implement the required measures to prevent masking then commercial drivers licenses issued in New Mexico will not be honored in other states.

PERFORMANCE IMPLICATIONS

From DOT’s point of view, the performance criteria for MTD should involve not only regulation of heavy vehicle safety issues, but also the collection of revenue for the State Road Fund. If the penalties for tax evasion and regulatory noncompliance are not sufficiently motivating to the taxpayer, it makes MTD’s job that much harder. Increasing penalties associated with avoiding ports-of-entry or traveling without an appropriate oversize-overweight permit, should improve MTD’s effectiveness to complete its mission.

ADMINISTRATIVE IMPLICATIONS

The TRD indicates that Section 1 of the bill provides that a truck may be detained if the operator has not filed weight distance tax return or if they have filed a return showing zero liability. This definition of non-compliance may in fact bring in some taxpayers who are compliant, but, for example, have not had any liability during a particular period of time. If, rather than stating that a zero filing is “proof” of non-compliance, the bill stated that it was an “indication” of non-compliance, this would allow enforcement officers the flexibility to accept other evidence of compliance.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB-333 is a duplicate of the original HB-317, and contains many of the same provisions related to fines and penalties as the HJC Substitute.

The NMDOT points out that HB 419, SB 446 & SB 447 present conflicts by amending the same sections of statute.

OTHER SUBSTANTIVE ISSUES

The provision in Section 1 allowing a vehicle to be detained until the tax is paid should prove to be an extremely effective compliance tool.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The NMDOT indicates that in the absence of provisions similar to those proposed in this bill, continued and increasing problems with weight distance tax and overweight permit fee compliance by a segment of the taxpayer population can be expected. In addition, there will be an undetermined amount of revenue that is not realized.

If the proposed legislation to address the masking of violations by commercial drivers is not implemented then 5% in 2007 and 10% in 2008 and out years of New Mexico's share of federal highway dollars could be withheld. For 2007, New Mexico's highway funds at risk amount to almost \$10 million. For 2008, the amount of funds at risk increases to roughly \$20 million. Additionally, if New Mexico does implement the required measures to prevent "masking", then commercial drivers licenses issued in New Mexico will not be honored in other states.

GM/nt