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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/07
 LAST UPDATED 3/01/07 HB 587/aHHGAC

SPONSOR Vigil

SHORT TITLE Motor Transportation Division Powers & Duties SB _____

ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Minimal			Non- Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 261

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 Department of Public Safety (DPS)
 State Personnel Office (SPO)

SUMMARY

Synopsis of HHGAC Amendment

The House Health & Governmental Affairs Committee amendment removes language in powers and duties enumerating which officers are covered under the section and simply states that the section applies to the director and other officers.

Synopsis of Original Bill

House Bill 587 consolidates language from existing statues to provide more concise language on the organizational structure, law enforcement authority and administration of the Motor Transportation Division (MTD) of DPS.

FISCAL IMPLICATIONS

This bill has no significant fiscal impact. It only consolidates existing law.

SIGNIFICANT ISSUES

The MTD consists of 147 authorized law enforcement officers who are commissioned as police officers, as defined in Section 29-7-7 NMSA 1978, by the Secretary of DPS. The division is a part of the DPS Law Enforcement Program which consists of the New Mexico State Police, Motor Transportation and Special Investigations Divisions.

DPS is committed in maximizing its efforts to impact those areas of most concern to the public they serve. Results of these efforts focused on five (5) issues:

- Reduce alcohol abuse crime and accidents
- Reduce illegal drug abuse and narcotic related crimes
- Reduce violent crime
- Ensure safer highways in New Mexico for the motoring public by assuming a leadership role and providing coordination of accident reduction initiatives
- Emergency preparedness

Since transferring to the DPS in 1998, the MTD has shown that it plays an integral role in addressing its critical roles. MTD police officers collect road use taxes, ensure that commercial motor vehicles are safe and legal to operate, patrol highways, analyze and coordinate serious commercial motor vehicle crash reduction initiatives, enforce motor vehicle laws, investigate accidents, respond to emergency calls for service, participate in drug interdiction efforts, back-up other law enforcement officers and provide law enforcement services as directed by the Chief of the New Mexico State Police and the DPS Secretary.

The current statutory language regarding the authority of Motor Transportation police officers is ambiguous and not clear. MTD is specifically empowered to enforce the provisions of the Motor Carrier Act, Motor Transportation Act and Motor Carrier Safety Act (65-1-6 NMSA 1978, 65-1-9 NMSA 1978) and other laws regulating commercial motor vehicles to include patrolling highways and establishing ports of entry and roadblocks pursuant to 65-1-2 (J) NMSA 1978 and 65-1-11 NMSA 1978. The MTD obtains its statutory authority to enforce the Motor Vehicle Code (Articles 1 through 8 of Chapter 66) pursuant to Section 66-2-12 (B) NMSA 1978 and to exercise the powers enumerated in paragraph (A) of Section 66-2-13 NMSA 1978. Up to 1998, MTD was also specifically empowered to enforce the Controlled Substances and Drug Precursor Acts in the Criminal Code, however, this language was inadvertently removed in 1998 when MTD enforcement employees were designated as police officers under 65-1-7 NMSA, 1978. It is not clear if the legislative intent was to limit the authority of MTD police officers to enforce violations of the Controlled Substances and Drug Precursor Acts and Criminal Code. In Section 64-3-9 NMSA 1953 (now replaced by NMSA 1978) the authority of MTD enforcement employees (inspectors) was even more vague: “the inspectors designated by the MTD shall have all the powers of peace officers in all cities, towns, villages and counties in New Mexico with respect to any law or regulation which the MTD is empowered to administer or enforce.”

During the summer of 2006, the LFC requested advice from the Attorney General (AG) of New Mexico regarding the statutory authority conferred upon police officers employed by the MTD. The AG concluded MTD officers currently do NOT have independent legal authority to enforce the Criminal Code and Controlled Substances Act. The AG concluded that only the DPS Secretary may dictate the scope of enforcement duties of MTD police officers and that they may

only enforce the provision of the New Mexico Controlled Substances Act or the Criminal Code only if the DPS cabinet secretary authorizes them to do so.

The most significant issue here is that MTD currently does not have independent authority to enforce the laws necessary for the MTD to effectively accomplish its mission, goals and objectives within the DPS law enforcement program.

ADMINISTRATIVE IMPLICATIONS

There will be minor internal policy and procedural changes.

RELATIONSHIP

HB 587 is almost a duplicate of SB261. In section 6, SB 261 refers to the director and other officers. In the same section, HB 587 refers to the director, deputy director, majors, captains, lieutenants, sergeants and patrol officers. In addition the short titles are slightly different. There are no substantive changes.

DW/mt