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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/07/07  
LAST UPDATED 3/05/07      HB \_\_\_\_\_

SPONSOR Griego

SHORT TITLE Weight Distance Tax and Penalty Enforcement      SB 496/aSCORC/aSF1

ANALYST Earnest

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	\$0.1*	\$0.1*	Recurring	General Fund
	\$0.1*	\$0.1*	Recurring	Road Fund

(Parenthesis ( ) Indicate Revenue Decreases)

\*Indeterminate but positive impact anticipated from increased penalties.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)  
Department of Transportation (DOT)  
Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of SFI Amendment

Senate Floor amendment number 1 adds a \$50 penalty for failure to register with a base state under the Federal Unified Carrier Registration Act of 2005.

Synopsis of SCORC Amendment

The Senate Corporation and Transportation Committee (SCORC) amendment reduces the increase in the penalties and inserts a 14-day time period for the Motor Vehicle Division of TRD to issues tax-id permits.

Synopsis of Original Bill

Senate Bill 496 would allow New Mexico to detain trucks at ports of entry (POE) if the vehicle is not in compliance with weight distance tax (paragraph (E) to Section 65-1-26, NMSA 1978). The Bill also requires law enforcement officers to notify the Motor Transportation Division of accidents involving commercial motor carriers. In addition, the bill allows buses and combination vehicles to exceed current length limitations under certain conditions. Finally, the bill increases penalties for excess weight violations in Sections 66-7-411, Section 66-8-116, Sections 66-8-116.2 and 66-8-116.2.

According to DPS, Senate Bill 496 is a “clean up” bill intended to clarify, modify and bring into compliance with federal regulations existing state statutes as they pertain to commercial motor vehicles (CMV), over-dimensional vehicles, and maximum driving time for drivers of commercial motor vehicles.

**FISCAL IMPLICATIONS**

Through additional enforcement mechanisms of the weight distance tax, more revenue should flow to the state road fund. By increasing penalties additional revenue will be generated for the general fund. Neither DOT nor DPS could estimate a revenue impact.

**SIGNIFICANT ISSUES**

According to DOT, the Federal Motor Carrier Safety Administration (FMCSA) has notified Oregon that the state can no longer require carriers to show Oregon weight distance tax credentials before they can be allowed to proceed through a port of entry (POE).

SB 496 avoids the problem that was the focus of the dispute between the federal government and Oregon by making no reference to credentials or tax ID cards. Rather, it allows the Motor Transportation Division (MTD) to detain a carrier when MTD has reason to believe the vehicle has not paid weight distance tax (the carrier has not filed a weight distance tax return, or filed one declaring no taxes are owed, or has allowed its weight distance tax account to be deactivated.) Any of those three determinations allow the port of entry of MTD officer to conclude that carrier/vehicle has not complied with weight distance taxes and should be detained until it does.

If enacted, DOT believes this bill should enhance collection of weight distance tax.

DPS summarizes the bill as follows:

- Requires every law enforcement agency that investigates a crash involving a CMV, which results in bodily injury, death or towing of vehicle(s) from the scene to submit a report within twenty-four (24) hours after the investigation is complete to DPS. Currently there is no written requirement that these reports be submitted to DPS for entry, and there

is a serious backlog of reports to be entered. This will improve the timeliness and quality of data entered into relevant databases and prevents possible federal penalties for the lack of timeliness of the data entry for these crash reports. To that end, DPS has a sincere interest in ensuring that the required crash reports are entered and uploaded in a timely manner, so that federal funding that comes to the agency is not jeopardized. (66-7-207 Written Reports of Accidents)

- Removes the requirement for a New Mexico State Police escort for over-dimensional vehicles that exceed twenty-feet (20') in width. The Oversize/Overweight Permit Office of the Department of Public Safety is responsible for determining the need and type(s) of escorts required for over-dimensional movements. (66-7-314 Movement of Hazardous Vehicle-Escort)
- The bill brings NM statute into compliance with federal regulations by:
  - Allowing a commercial bus to exceed forty-five feet when operating on National Network Highways.
  - Allowing certain combination vehicles defined as “specialized equipment” to exceed sixty-five feet.
  - Allows a “saddle-mount” vehicle to be considered specialized equipment which may not exceed ninety-seven (97') feet.
  - Provides an incentive for the use of vehicles with “idle reduction technology” by allowing an increase in weight limitations by four-hundred (400) pounds. This is intended to reduce the amount of pollutants emitted by CMV's that are allowed to idle for long periods of time.
- Doubles penalties for excess weight violations, which will aid in the protection of our highway infrastructure by providing a stronger deterrent to exceeding weight laws.
- Provides for an increased penalty for second, third and subsequent convictions of failure to operate an over-dimensional vehicle without and over-dimensional permit.
- Increases the penalty for Failure to Register a Motor Carrier from \$100.00 to \$300.00.
- Significantly increases the penalty for Failure to Carry Tax ID Permit from \$50.00 to \$300.00. This will provide a deterrent for carriers to avoid reporting weight distance taxes due the state. (66-8-116)
- Adds penalty assessment amounts for CMV Driver hours of service violations that were previously court appearance only violations or not in compliance with Federal Regulation updates related to maximum driving time. This will give the violator the option of either appearing in court or submitting a penalty assessment for the violation. Due to the nature of the trucking business, many times it is difficult for drivers to return to New Mexico for a court appearance. The penalty assessment will allow a driver to mail a penalty rather than appearing in court. (66-8-116)
- Provides for an increased penalty for Failure to Stop at a Port-of-Entry or Inspection Station for second, third and subsequent convictions to a maximum of \$500.00. (66-8-116)

## **PERFORMANCE IMPLICATIONS**

DPS notes that due to a lack of timeliness in reporting CMV related crashes, New Mexico has been identified as a “red state” by the Federal Motor Carrier Safety Administration. SB 496 should improve reporting. Currently crash reports are submitted sporadically to NMDOT by state, county and local law-enforcement agencies for entry. There is no negative impact on NMDOT for not entering the crash reports in a timely manner. DPS will ensure that the reports are entered into the relevant databases in a timely manner.

DPS finds that by removing the requirement for a New Mexico State Police (NMSP) escort for vehicles that exceed twenty-feet (20’) in width will reduce manpower demands on NMSP and allow DPS to focus on the missions of each respective division. The Oversize/Overweight Permit Office of the DPS would be responsible for determining the need and type(s) of escorts required for over-dimensional movements, and will ensure through the issuance of permits that proper and adequate private escorts are provided for the movement being made.

The increased penalty assessment amounts for CMV related offenses will allow DPS Motor Transportation Division Police personnel to more effectively carry out the mission of commercial motor vehicle enforcement. Increased penalties will foster a change in carrier and driver behavior which will bring about greater compliance with tax laws and should also result in increased traffic safety and protection of highway infrastructure.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

DPS finds that if SB 496 is not enacted, New Mexico will be in non-compliance with certain Federal Regulations as they pertain to highways and surface transportation. DPS which is currently lacking in manpower, will continue to utilize valuable personnel and equipment assets for over-dimensional load escorts, a service which can be safely performed by a certified private or for hire escort. The state will lose some ability to collect and enforce weight distance tax laws, which contribute significantly to the Road Fund. In addition, failure to enact the above captioned bill could result in continued deterioration of our roads and bridges due to excess weight violations, and increase in safety violations, economic difficulties for the motor carrier industry.

BE/nt