

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

## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Garcia/Harper</u>	<b>LAST UPDATED</b> <u>2/24/23</u>
	<b>ORIGINAL DATE</b> <u>2/15/2023</u>
<b>SHORT TITLE</b> <u>Fed Info For Commercial Driver’s Licenses</u>	<b>BILL NUMBER</b> <u>House Bill 269/aHTRC</u>
	<b>ANALYST</b> <u>Anderson</u>

### REVENUE\* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
No fiscal impact	\$6,200.0		Recurring – every 2 years	TRD Federal Funding

Parentheses ( ) indicate revenue increases.  
\*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	\$142.8	No fiscal impact	\$142.8	Nonrecurring	TRD MVD Motor Vehicle Suspense Fund- Contractual Resources
	No fiscal impact	\$37.8	No fiscal impact	\$37.8	Nonrecurring	TRD MVD Motor Vehicle Suspense Fund- Staff Workload
<b>Total</b>	<b>0</b>	<b>\$180.6</b>	<b>0</b>	<b>\$180.6</b>	<b>Nonrecurring</b>	

Parentheses ( ) indicate expenditure decreases.  
\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Department of Taxation Revenue (TRD)  
Department of Transportation (NMDOT)

## SUMMARY

### Synopsis of HTRC Amendment to House Bill 269

The House Taxation and Revenue Committee amendment to House Bill 269 strikes “issuance” on page 3, line 9 and inserts in lieu thereof “application” meaning drug and alcohol

clearinghouse records shall be requested at the time of application, not the time of issuance. This addresses an issue identified by the House Transportation, Public Works, and Capital Improvements Committee (HTPWC).

Additionally, the amendment addresses a syntax error on page 4, line 3, also identified by HTPWC. The language now reads, “The division shall complete the downgrade and enter it on the commercial driver's license information system driver record within sixty days of the division's receipt of the drug and alcohol clearinghouse record.”

## **Synopsis of House Bill 269**

House Bill 269 adds a new section to the New Mexico Commercial Driver’s License Act to require the Motor Vehicle Division (MVD) at the Department of Taxation and Revenue (TRD) to use results from the commercial driver's license drug and alcohol clearinghouse to determine whether a commercial driver is qualified to obtain or renew a commercial driver’s license (CDL) or commercial learner’s permit. House Bill 269 also adds a new section to the New Mexico Commercial Driver’s License Act to require MVD to use results from the commercial driver's license drug and alcohol clearinghouse to determine commercial driver eligibility to transfer an out-of-state CDL.

The effective date of this bill is January 1, 2024.

## **FISCAL IMPLICATIONS**

According to the Department of Taxation and Revenue (TRD), the consequence of not enacting the legislation could come at a cost of approximately \$6.2 million over two years, and every two years thereafter.

The Department of Transportation (NMDOT) responded:

HB269 has no direct fiscal or operational impact on the NMDOT, as the NMDOT does not set or enforce CDL or commercial learner’s permit standards. However, 49 CFR § 382.725 (a)(2) requires that, on or after November 18, 2024, “the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license or commercial learner's permit from that State,” and HB269 allows the MVD to act in compliance with 49 CFR § 382.725 (a)(2). Noncompliance with 49 CFR § 382.725 (a)(2) could have a possible impact on federal highway funding; therefore, if failure to enact HB269 were to result in noncompliance with the federal regulation and the federal government were to reduce highway funding to New Mexico as a result, there would be an indeterminate financial impact on the NMDOT.

## **SIGNIFICANT ISSUES**

House Bill 269 would keep New Mexico compliant with federal licensing department standards, which the state has a deadline to reach in November 2024.

Taxation Revenue Department said:

This bill ensures New Mexico's CDL and commercial learners permits conform with federal law and regulations. These changes must be made by November 2024 to prevent loss of federal funding to the Department of Transportation (NMDOT) and for New Mexico CDLs to continue to be recognized federally. The Federal Motor Carrier Safety Administration (FMCSA) created a national drug and alcohol testing clearinghouse that receives reports when commercial drivers test positive on drug or alcohol tests or refuse to submit to testing. This bill will provide for New Mexico to use this clearing house and direct MVD to check the clearing house when a driver applies for a CDL. Commercial drivers who failed or refused to submit will have their license downgraded at any time during their licensure.

## ADMINISTRATIVE IMPLICATIONS

TRD responded:

Implementation of this bill will have a moderate impact on Tax & Rev's Information Technology Division (ITD). The estimated time to develop, test, and implement the changes is approximately 680 hours, or 4 months, and approximately \$180,600 (\$142,800 contractual resources including gross receipts tax, and staff workload costs of \$37,800).

This bill requires adding functionality in Tapestry to verify all commercial driver's drug test results from the commercial driver's license drug and alcohol clearinghouse to determine if a commercial driver is qualified when issuing, renewing, upgrading, downgrading or transferring commercial driver's licenses or commercial learners permits.

## TECHNICAL ISSUES

House Bill 269 states the division shall request commercial driver's license drug and alcohol clearinghouse records of an applicant for a commercial driver's license at the time of issuance. It was suggested by the House Transportation, Public Works, and Capital Improvements Committee (HTPWC) for TRD to review clearinghouse records for commercial driver's license applicants *prior* to the time of license issuance. This issue was corrected by the HTRC amendment.

HTPWC also identified a syntax error on page 4, line 3, of the bill, which might warrant clarification (This issue is also addressed in the HTRC amendment):

The division shall complete and record on the commercial driver's license information system driver record within sixty days of the division's receipt of the record.

Finally, HTPWC suggested clarification regarding the submission of positive results from trucking companies to TRD, referencing page 5, line 24, through page 6, line 6:

C. When a person or entity specified in 49 C.F.R. part 382.103 determines that a positive test result is valid, the person or entity shall report the findings to the motor vehicle division of the taxation and revenue department. The motor vehicle division shall enter the report of a positive test result or refusal to submit to a test

on the reported person's motor vehicle record so that it can be contained in the commercial driver's license information system pursuant to the New Mexico Commercial Driver's License Act.

Transportation companies report positive tests to TRD, which adds the results to a federal database. HTPWC raised concerns of a risk for an unfunded mandate if bill language remains unclarified.

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

According to the Department of Taxation and Revenue (TRD), failure to enact the legislation could come at a cost of approximately \$6.2 million over two years, and every two years thereafter.

GA/rl/hg/ne