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FISCAL IMPACT REPORT

ORIGINAL DATE 1-27-2006
 LAST UPDATED 2/7/06 HB _____

SPONSOR Smith

SHORT TITLE Weight Distance Tax Penalties & Enforcement SB 333/aSJC

ANALYST Dearing

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
	\$0.1		Recurring	State Road Fund (weight distance tax compliance)
	\$0.1		Recurring	General Fund (Penalty Assessments)

(Parenthesis () Indicate Expenditure Decreases)

* 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.

Companion to HB 317
 Conflicts with HB 419, SB 446 & SB 447
 Relates to HB 535

SOURCES OF INFORMATION

LFC Files

Responses Received From
 New Mexico Department of Transportation (NMDOT)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of SJC Amendment

Senate Judiciary Committee has amended Senate Bill 333 such that:

1. On page 1, line 18, after the semicolon insert "PERMITTING THE DEPARTMENT OF PUBLIC SAFETY TO ISSUE RULES THAT DETERMINE LENGTH AND WEIGHT LIMITATIONS;"

2. On page 6, line 21, after "LOADS" insert "--EXCEPTION FOR RULES ISSUED BY THE DEPARTMENT OF PUBLIC SAFETY".

3. On page 9, line 22, strike the quotation mark and between lines 22 and 23 insert the following new subsection to read:

"H. Notwithstanding the provisions of this section, the department of public safety may issue rules that determine length and weight limitations for specialized equipment, saddle-mount vehicles and other commercial motor vehicles.""

4. On page 15, line 8, strike "100.00" and insert "300.00".

5. On page 16, line 20, after "second" insert "acceptance of a penalty assessment or a second".

6. On page 16, line 23, after "subsequent" insert "acceptance of a penalty assessment or a third or subsequent".

7. On page 23, line 16, after "second" insert "acceptance of a penalty assessment or a second".

8. On page 23, line 19, after "subsequent" insert "acceptance of a penalty assessment or a third or subsequent".

Generally, with the exception of an increase in the penalty for failure to secure a load to \$300 from \$100, the above amendments do not constitute substantial changes in this bill. Specifically, the changes are linguistic in nature and are necessary to clarify the meaning of this legislative enactment.

Regarding the increase in penalties for the failure to secure loads, an increase to revenues would be incurred from the increased fine net of subsequent enforcement costs. The significance of this revenue increase would vary directly with the level of enforcement of that component of this legislative enactment.

Synopsis of Original Bill

Senate Bill 333 relating to motor vehicles; allowing detention of vehicles for failure to pay weight distance tax; providing increased penalties for violations of weight limitations and for

failure to stop at every port of entry and to carry a tax identification permit or a permit for excessive size or weight; increasing the length limitation for buses operating on national network highways and combination vehicles or saddle-mount vehicles that are specialized equipment; restricting application of maximum driving and on-duty time violation penalties to a passenger carrier transportation; providing additional maximum driving and on-duty time penalties.

FISCAL IMPLICATIONS

If enacted, this bill raises the penalties associated with violating the weight limitations and raises the penalties associated with failing to register a motor carrier. In essence, 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 oversize-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. The fine for failure to carry a weight distance tax identification permit is increased from \$50 to \$300. 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.

Generally, there will be an increase in revenue from fines. The amount is not determined, however, as this will be based on the total level of citations issued for the applicable offenses.

Disregarding any positive fiscal impact to the general fund associated with increased penalty assessment fees, enactment of this legislation would increase compliance of weight distance, and overweight permit usage, a high priority for the Department of Transportation.

The effective date of the provisions of this act are effective July 1, 2006.

SIGNIFICANT ISSUES

A majority of firms operating heavy transport trucks are conscientious taxpayers operating in a very competitive, highly regulated, cost-conscious environment. Tax evasion by a limited minority of the industry creates a “free-rider” 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.

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. Overall, the provision in Section 1 allowing a vehicle to be detained until the tax is paid is expected to be an extremely effective compliance tool.

ADMINISTRATIVE IMPLICATIONS

If the proposed legislation becomes law, then MTD will need training related to tax issues, procedural changes, and perhaps some new situations that may require making a "judgment call."

TECHNICAL ISSUES

According to the Department of Public Safety, there are technical issues associated requested amendments prior to enactment of this bill

The following requested changes were submitted on this bill to LCS on 1-24-06

Amended to Insert:

Page 9:

- H. Notwithstanding any provision of this section or any other provision of Chapter 66 the New Mexico Department of Public Safety may promulgate regulations designating size and weight limitations for specialized equipment, saddle-mount vehicles or any other commercial motor vehicle; which shall supercede legislative provisions governing size and weight in Chapter 66.

Page 16:

- E. Upon a second *acceptance of a penalty assessment* or conviction for operation without a permit for excessive size or weight pursuant to Section 66-7-413 NMSA 1978, the penalty assessment shall be two hundred fifty dollars (\$250). Upon a third or subsequent *acceptance of a penalty assessment* or conviction, the penalty assessment shall be five hundred dollars (\$500)."

Page 23:

- E. Upon a second acceptance of a penalty assessment or conviction for failure to stop at a port of entry or inspection station pursuant to Section 65-5-1 NMSA 1978, the penalty assessment shall be two hundred fifty dollars (\$250). Upon a third or subsequent acceptance of a penalty assessment or conviction, the penalty assessment shall be five hundred dollars (\$500)."

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

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.

The Department will be compliant with Title 23 and 49 of the federal regulations.

PD/mt