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## FISCAL IMPACT REPORT

**ORIGINAL DATE**  
**LAST UPDATED** 02/03/12    **HB** 263

**SPONSOR**    Rehm

**SHORT TITLE**    Drug Possession Driver's License Revocation    **SB** \_\_\_\_\_

**ANALYST**    Jorgensen

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

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		*				

(Parenthesis ( ) Indicate Expenditure Decreases)

\*See Fiscal Implications

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

New Mexico Department of Transportation (NMDOT)

### SUMMARY

#### Synopsis of Bill

House Bill 263 would make a six-month revocation of a person's driver's license mandatory if the person is convicted of any of several drug-related crimes from the date that the conviction or adjudication is final and all rights to appeal have been exhausted.

### SIGNIFICANT ISSUES

This bill, as drafted, would comply with Federal Title 23 Highways Part 192 Drug Offender's Driver's License Suspension. This Federal Section reads:

“A State meets the requirements of this section if:

(1) The State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception:

(i) The revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of

(A) Any violation of the Controlled Substances Act, or

(B) Any drug offense, and

(ii) A delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual otherwise would have been eligible to have a driver's license issued or reinstated if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted, **or**

(2) The Governor of the State:

(i) Submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after November 5, 1990, a written certification stating that he or she is opposed to the enactment or enforcement in the State of a law described in paragraph (c)(1) of this section relating to the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

(ii) Submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in paragraph (c)(1) of this section.

(d) A State that makes exceptions for compelling circumstances must do so in accordance with a State law, regulation, binding policy directive or Statewide published guidelines establishing the conditions for making such exceptions and in exceptional circumstances specific to the offender.”

According to NMDOT, if acted upon by the Federal Government, this would result in the withholding from NMDOT Federal-aid funding of approximately \$20 million the first year, and \$40 million in each subsequent year.

Since 1992, New Mexico has been in compliance with this Section by complying with Part (2) in the “Bill Summary” above. In 1992, the Legislature passed HJR 11 which opposed this law. Also, each year since 1992, the presiding Governor of the State has signed a yearly certification opposing this law.

## **OTHER SUBSTANTIVE ISSUES**

According to the AGO, a likely challenge to this legislation is that there is not a clear nexus between crimes of trafficking, possession, distribution, and manufacture of controlled substances, and attempt to commit these offenses, to an individual’s ability or interest in obtaining a driver’s license.

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

If this bill is not passed, the Governor of the State of New Mexico will have to certify each year that she opposes the federal law or risk NMDOT receiving millions of dollars less each year of Federal funding for highways and operations.

NCJ/lj