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## FISCAL IMPACT REPORT

**SPONSOR** House Floor      **ORIGINAL DATE** 03/09/21      270/HCEDCS/HF1S/a  
**LAST UPDATED** 03/15/21      **HB** STBTC  
**SHORT TITLE** Autonomous Vehicles      **SB** \_\_\_\_\_  
**ANALYST** Graeser

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23	FY24	FY25		
No fiscal impact						State Road Fund
No fiscal impact						Local Government Road Funds

Parenthesis ( ) indicate revenue decreases.

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

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Indeterminate		Indeterminate	NR	Department of Transportation

Parenthesis ( ) indicate expenditure decreases.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Transportation (NMDOT) on HB270/HF1S

Department of Public Safety (DPS) on original bill

Taxation and Revenue Department (TRD) on original bill and HCEDCS

### SUMMARY

#### Synopsis of STBTC Amendment

The Senate Tax, Business and Transportation Committee amendment to House Floor substitute for House Commerce and Economic Development Committee substitute for House Bill 270 extends the effective date of the provisions of the act to January 1, 2023 to allow DOT to study the issue and promulgate rules regarding autonomous vehicles.

Synopsis of Original Bill

The House Floor substitute for House Commerce and Economic Development Committee substitute for House Bill 270 amends the Motor Vehicle Code to allow testing of autonomous vehicles (commonly called self-driving vehicles), including commercial motor carriers, on the roads of New Mexico. The bill would allow “platooning” of such vehicles, as well as authorizing vehicles within a driver-assisted platoon to follow other connected vehicles closer than currently permitted (300 feet), although each vehicle in the platoon would have to have a human “driver.” HB270/HCEDCS/HFIS requires, prior to testing autonomous vehicles, the person owning or operating the vehicle notify NMDOT of the intent to conduct such testing. NMDOT is required to promulgate rules concerning the required notice and further to establish minimum standards and requirements when autonomous vehicles are tested in New Mexico. Finally, NMDOT is granted the authority to create by rule a process for reviewing the testing notice and imposing restrictions in terms of hours of operation, location of testing, and perhaps other criteria to ensure public safety.

The bill stops short of allowing autonomous vehicles to operate without restriction on the roads of New Mexico.

Although the title of the bill includes the phrase “Requiring Permits,” the bill does not require a permit. It does require notice to NMDOT and, pursuant to the rule-making authority granted to NMDOT, may result in NMDOT restricting autonomous vehicle testing.

HB270/HCEDCS/HFIS removes specific requirements under Section 7, Subsection B pertaining to the content of rules promulgated by NMDOT to regulate autonomous motor vehicle testing permits, including the requirement that promulgated rules would establish “minimum standards and requirements” to be satisfied by operators of autonomous motor vehicles.

HB270/HCEDCS/HFIS further requires autonomous motor vehicles, including commercial vehicles, to meet federal standards and regulations for motor vehicles and specifies that autonomous vehicles must be capable of being operated in compliance with applicable traffic and motor vehicle laws. In the event of a crash involving an autonomous motor vehicle, HB270/HCEDCS/HFIS requires autonomous motor vehicle operators or a person working on behalf of the vehicle owner for providing notification to local law enforcement.

HB270/HCEDCS/HFIS restricts the ability of counties and municipalities to prohibit autonomous motor vehicle use within its boundaries solely based on the vehicle being equipped with an automated driving system.

The effective date of this bill is July 1, 2022. DOT requests that the bill be amended to January 1, 2023 to allow DOT to properly study and promulgate rules regarding autonomous vehicles.

**FISCAL IMPLICATIONS**

The bill provides the authority for NMDOT to promulgate rules for the process of notice and review for testing autonomous vehicles. However, the bill does not indicate that a fee could be charged for this. Although the title of the bill includes “Requiring Permits,” there is no provision

in the bill for issuing such a permit or charging a fee for the review of the notice required in Section 7 of the bill.

DOT comments:

HB270/HCEDCS/HFIS has no direct requirement for the reallocation of NMDOT funds, nor will there be a requirement for NMDOT to spend funds. However, HB 270/HCEDCS/HFIS Section 7, Subsection B (page 15) specifically involves NMDOT, providing:

“The department of transportation shall promulgate rules regarding the notification and regulation process provided for in Subsection A of this section, including forms to be used and information to be submitted by operators of autonomous motor vehicles and autonomous commercial motor vehicles when testing such motor vehicles on public highways in New Mexico.”

Promulgating rules as required by HB270/HCEDCS/HFIS Section 7 will require a commitment of NMDOT staff resources as well as associated administrative costs.

## **SIGNIFICANT ISSUES**

LFC staff note the person owning or operating the vehicle is required to notify MVD at least five days in advance of the testing. Pursuant to rules promulgated by NMDOT to ensure public safety, the Motor Vehicle Division may be able to review this notice and impose restrictions as to location, hours, and other criteria.

DPS comments: “Safety concerns would be the significant issue regarding driver-assisted platooning of motor vehicles. In the event a vehicle malfunctioned it could pose a risk to the motoring public.”

## **ADMINISTRATIVE IMPLICATIONS**

With the provisions of the bill, the only certainty is NMDOT is required to pay attention to the issues and periodically promulgate rules. Eventually, after testing is complete, NMDOT will have to determine if permanent review of autonomous vehicle use is appropriate or necessary.

## **TECHNICAL ISSUES**

LFC staff note the bulk of the provisions of this bill seem to be addressing commercial motor carriers, in which case, perhaps the Motor Transportation Division of DPS might be a better choice of agencies to promulgate rules for autonomous vehicles. NMDOT, apparently, issues special oversize/overweight permits for motor carriers and this function is like the permit requirements of this bill, both regarding promulgating rules and reviewing applications for restrictions. Alternatively, separate notice could be required for commercial motor carriers and for vehicles that can be driven without qualifying for commercial driver’s license.

LFC staff in the FIR for HB270/HCEDCS noted that a July 1, 2022 effective date would allow NMDOT adequate time to study the issue and promulgate rules for the required notice and subsequent review with possible restrictions. However, that same FIR noted a concern that between the date the bill was passed and signed until the July 1, 2022 date, that either: (1) testing

would be allowed without restriction or (2) since current statute does not clearly allow for testing or operating autonomous vehicles, the extended effective date might be interpreted as a cease-and-desist mandate or permission for local governments to enact ordinances to restrict the testing or unrestricted operation of autonomous vehicles. The request in the DOT analysis to further extend the effective date to January 1, 2023 raises these same concerns and, perhaps, amplifies them.

Consideration may be given to an amendment separating the notice and review affecting the testing of autonomous motor carriers from the testing of motor vehicles that would not require a commercial drivers' license. As part of this amendment, consider assigning the review and subsequent imposition of restrictions to the Oversize/Overweight permitting function of NMDOT.

### **OTHER SUBSTANTIVE ISSUES**

TRD notes the following: “The Federal Motor Carrier Safety Association (FMCSA) has not yet ruled on autonomous commercial vehicles. State statute may need to be amended to follow the guidance of any federal regulations set forth.

NMDOT notes the following:

Current Level 3 testing is occurring in New Mexico along I-40 by Daimler-Benz and along I-10 by TUSimple. However, the proposed language of HB270 Section 5, paragraph A provides that “A person who wishes to drive or test an autonomous motor vehicle or an autonomous commercial motor vehicle on a public roadway in New Mexico **shall notify** the division” (emphasis added). One interpretation of this section is that it may operate as a cease-and-desist mandate to those industries until the notice and review procedures have been determined.

### **ALTERNATIVES**

Some consideration could be given to separate the provisions of this bill into provisions, including permitting for motor carriers and provisions affecting other vehicles. Alternatively, New Mexico could wait until model uniform provisions are developed by the American Association of Motor Vehicle Administrators (AAMVA) or the Federal Motor Carrier Safety Administration. This uniformity would assist in the development of autonomous vehicles.

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

NMDOT notes, in the absence of the provisions of this bill, New Mexico will not have a legal mechanism in place to determine where autonomous vehicle testing is occurring within its borders.

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