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F I S C A L I M P A C T R E P O R T



SPONSOR: Herrera DATE TYPED: 01/21/02 HB 95

SHORT TITLE: Speeding in Construction Zone SB _____

ANALYST: Hayes

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)_

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY02	FY03			
Unknown	Unknown		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Responses Received From:
 Department of Public Safety (DPS)
 Bernalillo County Metropolitan Court (BCMC)

No Response:
 Taxation and Revenue Department (TRD)
 State Highway and Transportation Department (SHTD)

SUMMARY

Synopsis of Bill

House Bill 95 amends Sections 66-7-301 and 66-8-116 NMSA 1978 of the Motor Vehicle Code to increase the penalty assessment for speeding in a construction zone or other safety zone by doubling the penalty.

Significant Issues

1. In regards to the SPEED REGULATION section, the amendment would allow the Highway and Transportation Department to designate “safety zones,” not just construction zones, whereby a speed limit could be posted to protect workers.
2. In the PENALTY ASSESSMENT MISDEMEANORS section, the amended language would read “the penalty assessment for speeding in violation of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978 is twice the penalty assessment established in Subsection A of this section for the equivalent miles per hours over the speed limit.

FISCAL IMPLICATIONS

Doubling the speeding fine in a construction zone or safety zone will increase revenue to the general fund; however, the estimate of that revenue is unknown.

TECHNICAL ISSUES

Some uncertainty is presented by the reference to “the department” as contained in the proposed amendment of §66-7-301 A (4) [see, pg. 1, line # 27]. Without further qualification, all references in the Motor Vehicle Code to “department” ordinarily refer to the Taxation and Revenue Department (see, §66-1-4.4 D). In analogous and proximate sections, including the one targeted for amendment, it is instead the State Highway and Transportation Department that is expressly authorized to establish special speed zones (see, §§66-7-303 and -303.1). The context of the remainder of the sentence to be amended would imply that the newly created “safety zone” is also one which would be designated by SHTD. Therefore, it would be advantageous to switch the sequence of the phrases “department” and “state highway and safety department” as they appear in this proposed amendment for clarification purposes.

OTHER SUBSTANTIVE ISSUES

If this bill were approved, the amended language would not necessarily supersede laws of a municipality (see, §66-8-130). It states that “any municipality may, by passage of an ordinance, establish a municipal penalty assessment program similar to that established... for violations of provisions of the [state] Motor Vehicle Code.” For example, if a motorist is speeding in a construction zone in Albuquerque, a law enforcement officer has the discretion to cite either the municipal or the state statute violation(s). As a result, if the officer cites the municipal provision and if the motorist mails in the penalty assessment, the revenue goes to the municipality, not the state.

CMH/ar