

citizens of New Mexico as well as preventing officers from detecting and stopping commercial vehicles that are evading the ports of entry and avoiding paying highway usage taxes, such as the weight distance tax.

DOT state New Mexico is one of four states that have what is commonly known as a weight distance tax. For trucks driving in and across the state, a fee is charged based on how far they travel and how much they weigh. In the case of New Mexico, the weight distance tax is offset by the lowest truck registration fees in the country. DOT reports weight distance taxes will produce \$83 million in fiscal year 2009 for the department and is its third largest source of revenue after fuel taxes. The revenues are received as the trucking companies file their quarterly tax returns. DPS monitors the highway and staffs the ports of entry for safety and compliance. DOT states because DPS is not fully staffed, there have been some concerns about a lack of compliance in obtaining weight distance taxes. This concern was one that was recognized and put on the menu of revenue-possible enhancements during the House Memorial 35 study process. DOT notes DPS feels that increased personnel on the roads and at the ports will achieve greater revenue.

MTD reports the following current staffing levels. MTD operates 15 ports of which five are 24 hour operations. The 24 hour ports of entry and current staffing levels are below:

Raton POE:	I-25	8 inspectors (1 vacant)	1 port supervisor (1 vacant)
Gallup POE:	I-40	12 inspectors (1 vacant)	1 port supervisor
San Jon POE:	I-40	11 inspectors	1 port supervisor
Anthony POE:	I-10	12 inspectors (2 vacant)	1 port supervisor
Lordsburg POE:	I-10	10 inspectors (1 vacant)	1 port supervisor

Seventy-seven percent of the authorized transportation inspectors are assigned to the five 24 hour ports of entry. The following are current overall division staffing levels:

Transportation Inspectors:	75 authorized (6 vacant):	8.0% vacancy factor
Commissioned Officers:	149 authorized (26 vacant):	17.0% vacancy factor
Support Personnel:	32 authorized (4 vacant):	12.5% vacancy factor
Total MTD Personnel:	256 authorized (36 vacant):	14.1% vacancy factor

MTD believes that their ports of entry are grossly understaffed and that their port facilities have not received sufficient additional FTE over the years to keep pace with the increasing number of commercial motor vehicles that pass through their ports daily. Consequently, the division is only able to keep open the busiest port facilities 24/7 with a minimum number of personnel while the other ports are open on a part-time or sporadic basis, such as during special enforcement operations.

MTD reports during the past 10 years, the number of miles driven daily by commercial motor vehicles throughout the state has increased 41.7 percent from 7.2 million miles per day to 10.2 million miles per day. Truck counts through the major port facilities have increased on an average of 70.8 percent during this same 10 year period. MTD states because of the increased traffic volume and limited personnel, it is very difficult for existing port personnel to adequately check the credentials and verify the tax status of every commercial motor vehicle that passes through the facility. MTD often operates the 24 hour facilities with one inspector working the credential booth checking credentials and determining whether or not to secondary the vehicle

for further investigation (vehicle safety, cargo verification, driver credentials, logbook violations, road tax violations, illegal activities, etc.) and another inspector issuing trip tax permits and conducting Level II or III CVSA safety inspections (depending on the number of drivers waiting to purchase trip permits). MTD notes police officers are frequently removed from conducting traffic enforcement safety inspections and other highway enforcement duties to work the ports of entry selling trip permits, checking credentials, etc. This prevents these officers from detecting and stopping commercial motor vehicles that are evading the port of entry and avoiding paying highway use taxes.

MTD is currently working in conjunction with the Taxation and Revenue Department in developing and implementing a mechanism to check the weight distance tax status of motor carriers both at the ports of entry and on the highway. 65-1-26(E) NMSA 1978 now allows MTD to detain commercial motor carriers that are not in compliance with the weight distance requirements of the Weight Distance Tax Act until the tax is paid. MTD states this has placed an additional burden on port of entry personnel.

PERFORMANCE IMPLICATIONS

SPO states additional patrolmen and transportation inspectors could have a positive impact in the areas of controlling the trafficking of human beings and drugs, as well as aide in the collection of weight distance taxes. Additional transportation inspector positions would allow the Motor Transportation Division to inspect more commercial vehicles whereas reducing the number of out-of-compliance vehicles on New Mexico roadways. SPO notes this will help the Department of Public Safety in achieving its identified performance standards.

DOT states that heavy trucks have the most significant impact of highways due to roads being built to their criteria and replaced more frequently. The concept of the weight distance tax is to get as close to a direct user tax as possible. DOT notes it is important that the full taxes be collected as these revenues are then placed back into the roads for which they are generated. Underreporting leads to underpaying for the road improvements.

MTD states if the proposed legislation was enacted, additional transportation inspector and officer personnel will be placed as follows:

Raton:	3 inspectors	No additional police officers
Gallup:	3 inspectors	and 2 police officers
San Jon:	4 inspectors	and 2 police officers
Anthony:	3 inspectors	and 2 police officer
Lordsburg:	5 inspectors	and 1 police officer

MTD reports the additional police offices will be designated as port police officers and will be assigned port enforcement duties to include the detention of commercial motor carriers that are not in compliance with the Weight Distance Tax Act. Additional port personnel will facilitate the verification of the status of weight distance tax accounts and will also result in a greater compliance with timely weight distance tax reporting in addition to collecting weight distance taxes that are in arrears. MTD notes additional personnel will also result in a greater number of CVSA safety inspections, driver inspections and cargo verifications.

ADMINISTRATIVE IMPLICATIONS

SPO states the Department of Public Safety should be able to recruit and employ the additional officers and inspectors with existing staff. It is not clear what impact this may have on administrative and support functions. SPO states it is unknown if the Department of Public Safety would be able to fill its law enforcement officer positions in a single year due to the shortage of law enforcement officers nationwide.

DPS states it may be difficult to attract qualified personnel as transportation inspectors due to the low starting salary of \$10.87/hour. Although this position does not require college hours, it is a very technical position that requires a considerable amount of training that requires inspectors to obtain several levels of inspector certifications through examination. DPS reports New Mexico currently ranks 9th out of the 9 regional states surveyed in entry level transportation inspector salaries. The regional average minimum starting pay is \$13.49/hour compared to New Mexico which is \$10.87/hour.

TECHNICAL ISSUES

DOT notes that the personnel in the proposed legislation are not specified to the Motor Transportation Division. The additional patrolmen could be presumably used for regular police patrols.

OTHER SUBSTANTIVE ISSUES

SPO reports that Motor Transportation Division officers receive the same law enforcement training as State Police officers plus additional training in commercial vehicle related issues. SPO states there is an ongoing “bidding war” in recruiting qualified law enforcement officers within the state and across state lines. There is approximately a 17 percent to 19 percent vacancy rate for commissioned officers in the Motor Transportation Division.

ALTERNATIVES

DOT notes possible language that assures that the additional patrolmen positions will be used for highway inspection and safety purposes related to weight distance compliance.

RPG/nt