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## FISCAL IMPACT REPORT

SPONSOR Lundstrom ORIGINAL DATE 1/26/2009  
LAST UPDATED \_\_\_\_\_ HB 81  
SHORT TITLE Speed Restrictions on Nighttime Driving SB \_\_\_\_\_  
ANALYST Moser

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)

Taxation and Revenue (TRD)

Public Defender Office

### SUMMARY

#### Synopsis of Bill

House Bill 81 adds a provision to Section 66-7-301 that the current maximum speed limit on New Mexico highways of 75 miles per hour would apply during daytime hours only (from one-half hour before sunrise to one-half hour after sunset), and a maximum speed of 65 miles per hour would apply to other (nighttime) hours.

### FISCAL IMPLICATIONS

No fiscal impact.

### SIGNIFICANT ISSUES

DPS indicated that there would not be an issue in enforcing this statute. TRD indicates some concerns with the terms "one-half hour before sunrise" and "one-half hour after sunset" and indicates that they may be unconstitutionally vague. The following case law was cited by the department.

- See *State of Montana v. Johnston*, 867 P.2d 1090 (Mont.1994) -- regulation setting legal shooting times as one-half hour before sunrise and ending one-half hour after sunset not unconstitutionally vague because the regulations cross referenced sunrise-sunset timetables.
- *West Virginia Citizens Action Group*, 324 S.E.2d 713 (W.Va. 1984) -- failure to define term “sunset” in ordinance restricting solicitation made ordinance unconstitutionally vague.

Aside from the above it may be difficult for the traveling public to identify what one-half hour is before sunrise or after sunset and this language should be clarified.

GM/mt