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FISCAL IMPACT REPORT

ORIGINAL DATE 2/11/09

SPONSOR Miera LAST UPDATED _____ HB 290

SHORT TITLE Failure To Yield Right Of Way Penalties SB _____

ANALYST Haug

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Non-Rec | Fund Affected |
|---------------|------|-------------------------|------------------|
| FY09 | FY10 | | |
| | None | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Non-Rec | Fund Affected |
|-------------------|---------------|---------------|-------------------------|------------------|
| FY09 | FY10 | FY11 | | |
| | Indeterminate | Indeterminate | Recurring | General Fund |

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Taxation and Revenue Department (TRD)

Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

House Bill 290 amends Sec. 66-1-4.7 of the Motor Vehicle Code to add a new definition of “great bodily harm,” which means injury to a person that creates a high probability of death, causes serious disfigurement or results in permanent or protracted loss or impairment of the functions of any member or organ of the body.

The bill also adds a new section in the Motor Vehicle Code creating penalties for failure to yield right of way with respect to causing great bodily harm, which may be imposed in addition to other penalties, as follows:

- A. Causing no great bodily harm or death – fine of \$200 or 30-day suspension of NM driver’s license, commercial license or nonresident operating privilege, or both
- B. Causing great bodily harm – fine of \$500 or a 30-day suspension of NM driver’s license, commercial license or nonresident operating privilege, or both
- C. Causing death – fine of \$1000 or a 6-month suspension of NM driver’s license, commercial license or nonresident operating privilege, or both

FISCAL IMPLICATIONS

House Bill 290 makes no appropriation. The AOC notes that there may be an increase in the amount of work that needs to be done by the courts, thus requiring additional resources to handle increase. Revenue impacts are indeterminate resulting from the new penalties specified in the bill.

SIGNIFICANT ISSUES

The TRD notes that the bill does not adjust penalty assessment fines under Section 66-8-116 NSMA 1978, and the new fines are *in addition* to other penalties imposed. The existing penalty assessments for Failure to Yield are:

- generally, under 66-7-328 through 66-7-331) is \$10;
- for violation of 66-7-332 (failure to yield to an emergency vehicle) is \$50;
- for violation of 66-7-332.1 (failure to yield to oncoming vehicle) is \$25.

The PDD states that this bill creates a new penalty structure for all of the failure to yield offenses, beginning at a \$200.00 fine and 30-day license suspension, where there is no great bodily harm. The new penalty structure applies whether or not there was an accident associated with the failure to yield. As a result, the new structure dramatically increases the penalty assessment for a simple traffic offense and provides the same penalty for a failure to yield which results in an accident but does not involve great bodily harm.

The AOC notes:

- The definition in HB 290 is the same as used in the Criminal Code, Sec. 30-1-12.
- Sec. 66-8-101 of the Motor Vehicle Code, Part 2, Traffic Offenses, sets forth a definition for “great bodily harm by vehicle as the injuring of a human being, to the extent defined in the Criminal Code, as cited above, in the unlawful operation of a motor vehicle.
- It should be noted that as penalties increase, potential imprisonment tends to inspire defendants to retain attorneys and demand jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. These additional costs are not capable of quantification. In addition, indigent defendants are entitled to public defender services, which may require additional resources.