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FISCAL IMPACT REPORT

ORIGINAL DATE 2/17/21

SPONSOR Garcia, H/Lundstrom/ **LAST UPDATED** 2/18/21 **HB** 270

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 (no permit fee amount is established)						State Road Fund
						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
		\$133.0		\$133.0	Nonrecurring	TRD Operating
		Indeterminate		Indeterminate	Nonrecurring	State Road Fund

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Transportation (DOT)

Department of Public Safety (DPS)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 270 (HB270) amends the Motor Vehicle Code to allow autonomous vehicles (commonly called self-driving vehicles), including commercial motor carriers, to operate 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). HB270 adds permit requirements for driving and testing autonomous motor vehicles in New Mexico and directs NMDOT to promulgate rules for issuing autonomous vehicle permits. HB270 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 requires autonomous motor vehicle operators to give notice of the accident and provide to the investigating officer any and all information needed to determine the cause of the accident; further, vehicle manufacturers are required to cooperate with the investigation to the extent necessary in determining the cause of the accident. HB270 states that no political subdivision may prohibit the use of an autonomous motor vehicle within its boundaries solely based on the vehicle being equipped with an automated driving system.

The effective date of this bill is January 1, 2022.

FISCAL IMPLICATIONS

TRD notes the following:

While there are loose guidelines regarding the issuance of a permit to operate an autonomous vehicle issued by the American Association of Motor Vehicle Administrators (AAMVA), the form of the permit itself is not defined by the bill, nor are any fees associated with the issuance of the permit. It is unclear as to whether or not MVD would be able to charge an administrative fee to recoup any of the costs associated with the issuance of the permit, which makes it impossible to estimate revenue impact.

The bill provides for DOT to promulgate rules for the process of permitting autonomous vehicles. However, the bill does not indicate that a fee could be charged for the issuance of the permit.

DOT is charged with promulgating rules for the issuance of autonomous vehicle permits. DOT comments on the administrative costs:

HB270 has no direct requirement for the reallocation of NMDOT funds, nor will there be a requirement for NMDOT to spend funds. However, Section 5, paragraph B of the bill, specifically identifies NMDOT and provides:

“The department of transportation shall promulgate rules regarding the process for obtaining permits required pursuant to Subsection A of this section and establish minimum standards and requirements that shall be satisfied by applicants before such permits may be issued.”

Promulgating rules as required by HB270 will require a commitment of NMDOT staff resources as well as associated administrative costs.

SIGNIFICANT ISSUES

LFC staff note that the required permit should be issued to the vehicle and not the driver. Eventually, the driver could be remote from even the lead vehicle. TRD notes that there may be a confusion with the term “permit,” which is a term currently applied to young drivers applying for learning privileges. If the permit will be issued to the autonomous vehicle and not the driver,

then consideration should be given to assigning the tasks – at least for motor carriers -- to the Motor Carrier Division of the Department of Public Safety. There is an old “caravan” tax in the motor vehicle code (66-3-302. Caravan fee.) that prescribes a \$10 or \$7 fee per vehicle for a permit to transport vehicles for sale. This may be a suitable model for the permit proposed in this bill.

DOT comments:

HB270 Section 5, paragraph B requires NMDOT to promulgate rules regarding the process of issuing permits as well as the minimum standards and requirements for issuance of permits to manufacturers of autonomous motor vehicles. However, HB 270 Section 5, paragraph A states that persons wishing to drive or test an autonomous motor vehicle on a New Mexico public roadway must first obtain a permit issued by the “division.” Within Chapter 66 NMSA 1978, the use of “division” or “department” without specification means the Department of Taxation and Revenue (TRD). Given the meaning of “division” within Chapter 66, Section 5 of HB 270 creates a structure under which NMDOT would promulgate the rules for issuance of permits for autonomous motor vehicles but TRD – likely through the Motor Vehicle Division (MVD) – would issue the permits, although the language of HB270 Section 5 does not make this clear.

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

LFC staff note that TRD assumes that the required permit would be issued to the driver (lead driver) and not the vehicle.

TRD notes the following administrative issued:

The autonomous approval would have to be captured on the driver record along with the requirement to scan the approved permit into the system. MVD’s Tapestry system would also have to add an autonomous driver link on the launch pad to add or remove approval. The approval would need to have scanning capability to store the approval document. The interface between Tapestry/NIC/NLETS would have to be updated to show law enforcement that the driver had autonomous permit.

This bill requires changes to the Tapestry system to add a new permit to drive or test an autonomous motor vehicle or an autonomous commercial motor vehicle. Changes will also be required to the New Mexico Interactive (NMI) Interface for communication with law enforcement agencies. The estimated time to develop, test and implement the changes is approximately 640 hours or 4 months and approximately \$133 thousand (\$100 thousand contractual resources including gross receipts tax, and staff workload costs of \$33thousand).

Estimated Additional Operating Budget Impact*				Recurring or Nonrecurring**	Fund(s) or Agency Affected
FY2021	FY2022	FY2023	3 Year Total Cost		
--	\$100	--	\$100	Nonrecurring	ITD – Contractual Costs
--	\$33	--	\$33	Nonrecurring	ITD – Staff Workload

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

HB270 would require NMDOT to promulgate rules regarding the permitting of autonomous vehicles. See SIGNIFICANT ISSUES above. See TECHNICAL ISSUES below for an alternative.

TECHNICAL ISSUES/ SUGGESTED AMENDMENTS

TRD notes the following technical issues:

In Section 5, the word “permit” will cause confusion among MVD staff and other jurisdictions as most staff associate it with being a restricted operator’s license. It is suggested that this be called an Autonomous Driver Certification. Currently, when drivers go through the graduated licensing steps, they are asked to provide Driver Education “certificates” before obtaining a full non-restricted operator’s license. By referring to it as an Autonomous Driver Certification, it will align more closely to current business practices and fulfill the same need as a “permit”.

In Section 7, paragraph C of the new material, an exemption to Section 66-7-318 NMSA 1978 is added to allow for vehicles within a driver-assisted platoon to follow closer than what is otherwise allowed. However, the bill does not directly modify Section 66-7-318 NMSA 1978, which may cause confusion and errors with law enforcement agencies. Instead of adding an exemption to a law in a different section, MVD suggests amending the relevant section directly by adding the following underlined text to Section 66-7-318 NMSA 1978:

Section 66-7-318 NMSA 1978. Following too closely.

A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

B. The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district shall not follow another motor truck or motor vehicle drawing another vehicle within three hundred feet, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing by any like vehicle or other vehicle.

C. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall not follow the preceding vehicle closer than three hundred feet. This provision shall not apply to

1. Funeral processions, nor shall it apply within or outside of a business or residence district to motor vehicle escort vehicles of a motor vehicle escort service, which may, if necessary to maintain the continuity of the escorted unit or units, precede or follow at a distance closer than three hundred feet to the escorted unit or units and;
2. The operator of a vehicle that is part of a connected platooning system; and not the lead vehicle.

DOT comments that the agency is charged with promulgating rules for the issuance of permits, but that the Motor Vehicle Division (MVD) would be responsible for issuing the permits.

LFC staff notes 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. MTD issues special oversize/overweight permits for motor carriers and this function is like the permit requirements of this bill, both in regard to promulgating rules and to issuing permits. Alternatively, separate permits could be required for commercial motor carriers and for vehicles that can be driven without qualifying for commercial driver's license.

DOT suggests two amendments:

Adding a date for the permitting process in HB270 Section 5 to become effective would alleviate the concern about that section acting as a cease-and-desist mandate. Including an effective date of approximately twelve (12) months from the date HB270HB 270 is enacted would be an adequate amount of time to accommodate this.

An amendment clarifying the roles of NMDOT and TRD in Section 5 of HB270HB 270 would help NMDOT and TRD craft and implement the permit process contemplated in that section.

DPS also expresses concerns with a conflict with existing statute, reiterating the TRD concern.

The addition of platooning in this bill will be a direct conflict with the "Following too closely" statute 66-7-318. An amendment will need to be made to the "Following too closely" statute 66-7-318.

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.

DOT 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 HB270HB 270 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 first obtain a permit** to do so issued by the division" (emphasis added). One interpretation of this section is that it may operate as a cease-and-desist mandate to those industries.

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, wait until the American Association of Motor Vehicle Administrators (AAMVA) and/or the FMCSA publish uniform provisions that could be adapted and adopted in all states. This uniformity would assist in the development of autonomous vehicles.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

DOT notes that 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.