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FISCAL IMPACT REPORT

ORIGINAL DATE 1/20/08

SPONSOR Wirth LAST UPDATED _____ HB 49

SHORT TITLE DWI Case Appeals Review SB _____

ANALYST Peery-Galon

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$22.3	Non-Recurring	General Fund

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defenders Department (PDD)
 Administrative Offices of the District Attorneys (AODA)
 New Mexico Sentencing Commission (NMSC)
 Administrative Offices of the Courts (AOC)

No Responses Received From

Department of Public Safety (DPS)
 Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

House Bill 49 appropriates \$22.3 from the general fund to the New Mexico Sentencing Commission for a project to review the prevalence and results of all de novo appeals of DWI cases to district courts in New Mexico over a three-year period. The project is not to include a review of the de novo appeals of DWI case to the Bernalillo County District Court.

FISCAL IMPLICATIONS

The appropriation of \$22.3 contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2009 shall revert to the general fund.

NMSC reports it can do research if funded at an adequate level. NMSC states the funding for this project would cover the cost of collecting court data, analyzing data and reporting results.

SIGNIFICANT ISSUES

PDD states this study would allow the legislature to make determination about how best to proceed with DWI appeals in districts where the lower trial courts are not of record.

AODA states the history of these types of studies is not favorable to the prosecution. Any imbalance in outcomes and results generally cause an outcry for balance at the lowest possible punishment and best result for defense in the interest of fairness.

NMSC reports the term “de novo” relates to ones right to a completely new trial held at the district court level. The case is tried as if the original trial in the magistrate or municipal court had never taken place. NMSC notes one can do no worse on the de novo appeal than they received in the lower court. The proposed legislation effects only DWI cases appealed from the magistrate or municipal court to the district court in all counties of the state except Bernalillo. NMSC states appeals on DWI cases from the Bernalillo Metropolitan Court to district court are on the record and reviewed by the on-record appeals office in the second district court.

PERFORMANCE IMPLICATIONS

AOC states it is unknown if the enactment of this proposed legislation would impact performance measures as they relate to judicial budgeting and/or performance.

ADMINISTRATIVE IMPLICATIONS

NMSC states it would require data from the New Mexico judiciary to achieve the proposed legislations objective.

RPG/nt