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FISCAL IMPACT REPORT

ORIGINAL DATE 02/19/13
 SPONSOR Rue LAST UPDATED 02/27/13 HB _____

SHORT TITLE Driver's License Revocation Videoconference SB 467/aSPAC

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	Unknown	Unknown	Unknown	Recurring	DPS

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 467 clarifies that hearings to revoke a driver's license are to be conducted by a hearing officer in pursuant to the rules of evidence.

Synopsis of Original Bill

Senate Bill 467 (SB 467) clarifies the authority of hearing officers and will allow law enforcement to participate in driver's license revocation hearings by video conference.

SIGNIFICANT ISSUES

According to the AGO:

Among other things, SB 467 would clarify the authority of the hearing officer conducting the revocation hearing and would permit the use of videoconferencing technology to take testimony from a law enforcement officer.

Clarifying the authority of the hearing officer is sensible. With respect to the testimony of a witness via video-conferencing technology, it is important to note that a license revocation hearing is an administrative hearing and not a criminal proceeding. *See generally* NMSA 1978, Section 66-8-112. The use of video-conferencing technology in an administrative hearing is defensible particularly in the context of a specific grant of statutory authority. The use of video-conferencing technology in a criminal proceeding, however, is treated differently under the law.

OTHER SUBSTANTIVE ISSUES

The AOC declined to comment on SB 467 as it may be subject to future judicial review.

The DPS noted that SB 467 would have a positive fiscal impact on the Department but did not quantify that impact.

ALTERNATIVES

SB 467 does not make provision for video-conferencing “participation” from other witnesses. The better approach might be to confer specific authority upon the hearing officer to permit the taking of video-conference testimony from any witness. The hearing officer could enter such an order sua sponte (on an individual’s own accord with prompting by another party) or in response to a motion and for good cause shown. Giving the hearing officer specific statutory authority and a breadth of reasonable discretion would allow the parties to proceed at hearing on relatively equal footing with respect to witnesses and could result in increased hearing efficiencies

NCJ/blm:svb