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FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/15

SPONSOR Brandt LAST UPDATED _____ HB _____

SHORT TITLE Concealed Carry Licenses & Changes SB 268/aSPAC

ANALYST Sánchez

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|----------|----------|---------------------------------|------------------|
| FY15 | FY16 | FY17 | | |
| | (\$25.0) | (\$50.0) | Recurring | OSF |

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY15 | FY16 | FY17 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|----------|----------|----------------------|------------------------------|------------------|
| Total | | (\$25.0) | (\$50.0) | (\$75.0) | Recurring | OSF |

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB189, HB106 and SB118
 Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Sentencing Commission (NMSC)
 Department of Public Safety (DPS)
 Attorney General's Office (AGO)
 New Mexico Corrections Department (NMCD)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of SPAC Amendment

Senate Public Affairs Committee amendment to Senate Bill 268 strikes section 2 of the original bill in its entirety, changes refresher firearms training course to lost or stolen license, allows a licensee to submit for a renewal of a concealed carry license up to 90 days prior to expiration, allows DPS to conduct a background without requiring new fingerprints and extends the time to renew a license up to 90 days after expiration and a licensee can renew a license within 90 days after the license has expired.

Synopsis of Original Bill

Senate Bill 268 proposes to amend Section 29-19-2 NMSA 1978 (Concealed Handgun Carry Act) by extending the license period for a concealed handgun from four to five years; eliminating the requirement that the firearms training and license be specifically for the category and largest caliber of the handgun for which the license is sought, the identification of the handgun as semiautomatic or not semiautomatic, the requirement that the licensee complete a firearms refresher training course two years after issuance or renewal of the license; and not requiring an application or renewal fee and completion of a firearms training course by current or retired law enforcement officer or a current or honorably discharged military service person.

FISCAL IMPLICATIONS

DPS currently charges a \$44 renewal fee of which \$14.25 is an FBI fee. Extending the license period from four to five years will impact net revenue collected to carry out the requirements of the Act. There are approximately 61,000 CC handgun licensees in the State. It is unknown at this time how many will renew their license. However, by extending the license period from four to five years, the net revenue loss per year will be around \$50,000. The impact of not collecting from current and honorably discharged military individuals is estimated to be minimal although the true amount cannot be accurately estimated since the application does not require military service disclosure.

SIGNIFICANT ISSUES

DPS is concerned that lowering the requirements could affect the reciprocity that New Mexico's current licensees have with other states. Reciprocity is based on the requirements being the same as, or exceeding, the requirements of the reciprocating state. Relaxing the requirements could result in losing reciprocity with certain states should they determine New Mexico's requirements no longer meet their standards. If New Mexico requirements are changed, DPS will be required to provide a copy of its amended statute to each state with which a current reciprocity agreement is maintained and request a review of the requirements relative to the current agreement.

Also of import to DPS and which this bill removes is the two-hour refresher because it addressed concerns about licensees being authorized to carry multiple caliber handguns. This provision recognized that it was important to assure that licensees remain proficient in the safe and proper use and handling of firearms, magazines, and ammunitions. This provision further recognized that these skills would be more difficult to maintain when using and carrying multiple and various handguns. At the very least, the statutory refresher course incentivizes licensees to periodically re-familiarize themselves with the safe and proper use and handling of each firearm they are licensed to conceal and carry.

Removing the definitions and reference to Applicant Qualifications 29-19-4(10), License renewal etc. 29-19-6(C)(4) for "caliber" and "category" would mean that an applicant could qualify with a handgun of any caliber or category and then carry any other handgun of the licensee's choice. Currently, a licensee is authorized to carry only the handgun with which s/he qualified or any smaller-caliber handgun of the same category. Permitting a licensee to qualify with a small-caliber handgun only then to carry a much larger caliber handgun – without ever having to prove his/her proficiency with the larger weapon – does not promote firearms safety or the reputation of New Mexico's concealed carry program. Maintaining the requirement that a

licensee demonstrate proficiency with the highest-caliber firearm s/he intends to carry is a small imposition that pales in comparison to the larger safety issue that it serves.

The bill proposes to waive the application fee, renewal fee and training for active duty, veteran and retired military applicants. The DPS is not opposed to waiving the fees for Military personnel. However, many military personnel are not required to maintain a proficiency level with a handgun even while still in the military, not to mention those whose service has ended through discharge or retirement. Some active military or reservists/guard personnel are only required to complete a familiarization course, not a full proficiency course. This raises the concern that some military applicants will not have the skill to handle a concealed carry handgun proficiently and safely. The proposed bill also does not allow for proof of qualification on a firearm. A form of proof from the military installation where the applicant is or was stationed would be recommended.

The AODA and AGO express similar concerns as those expressed by DPS.

AODA states that unless DPS sets standards requiring training with multiple firearms, a person could be trained on .32 caliber handgun and yet carry a firearm of a different type and different bore size. A different handgun could have significantly different performance capabilities, especially if the gun has a larger bore size and propellant, like a .44 magnum, or is a semiautomatic which can fire almost continuously if they had trained on a revolver which has a slower rate of fire and may have had a smaller bore. Additionally, if this bill becomes law they could carry substantially different weapons than the handgun they used most in their training. In fact, they could carry one, or even more, handguns that they had never had any formal training on since the bill would also permit them to carry more than one concealed weapon.

RELATIONSHIP, CONFLICT

SB 268a duplicates the SB 118a amendments to Section 29-19-6 NMSA 1978.

Conflicts with HB 106 (still requiring that a license include the category and the largest caliber of handgun that the licensee is licensed to carry, with a statement that the licensee is licensed to carry smaller caliber handguns but shall carry only once concealed handgun at any given time, but otherwise a duplicate to SB 118a and a duplicate to that portion of SB 268a amending Section 29-19-6 NMSA 1978) and HB 189 (amending Section 29-19-3 NMSA 1978 to extend the concealed licensure term from 4 years to 5).

TECHNICAL ISSUES

AODA points out that it is unclear how a retired officer would show that they were in good standing when they left employment as a law enforcement officer other than declaring it themselves.

OTHER SUBSTANTIVE ISSUES

According to AODA, as drafted, the bill would make it possible for elderly veterans to get a concealed handgun carry license without having had any firearms training in decades, maybe fifty years or more. It is also possible that military service personnel could get a concealed carry license without ever having any training involving handguns since military training, at least for

enlisted personnel, utilizes rifles. Some veterans never had any subsequent firearms training after they completed their basic training. The bill is also confusing on its nomenclature regarding a person...”on reserve or guard duty.” Presumably it refers to persons who are in the enlisted reserves in the military or the National Guard, both organizations that are subject to being called into full-time active duty service. It is unclear whether those persons in the reserves or guard could only apply as military service persons during their (typically) annual two weeks of full-time duty, and/or their (typically) monthly week-end duty, or at any time during their enlistment periods.

The NMSC cites informative sources regarding concealed handgun carry laws across the United States. Below is their narrative.

According to state reporting, there were approximately 8 million active concealed carry permits (CCW) in the United States as of December 31, 2011 (GAO Report 2012). As of July 9th, 2013, all states have concealed carry laws. Nevada is the only state that provides unchallenged public access to the names of concealed carry permit holders (Reporters Committee for Freedom of the Press 2014).

There are two types of state issuing platforms for concealed carry permits, “shall issue” and “may issue”. In “may issue” states the law gives full discretion to the issuing official to grant or deny the permit, based on the guidance of various statutory factors. Even if the general requirements are met, the permit does not have to be issued. This type of law allows permitting authorities to consider factors that may not have been included in the language of a state’s CCW permitting statutes (Law Center to Prevent Gun Violence 2014). Nine states have “may issue” laws (Law Center to Prevent Gun Violence 2014). In the 37 “shall issue” states, law enforcement officials are required to issue a permit to anyone who meets certain minimal statutory requirements (Law Center to Prevent Gun Violence 2014). There are no concealed carry permits required for 4 states (Alaska, Arizona, Vermont, and Wyoming) and 99.4% of Montana (Law Center to Prevent Gun Violence 2014).

29 states (including New Mexico) require some form of firearm training/knowledge. (Law Center to Prevent Gun Violence 2014). The information is not clear on what states have military personnel and law enforcement officer (active or retired) exemptions from training course requirements or the requirement of a background check for renewal of a license. The periods of time for renewal of licensure vary greatly by state. All states require an extensive background check for initial application for a CCW permit.

POSSIBLE QUESTIONS

What happens if the honorably discharged military person also has PTSD, should that person immediately qualify for a concealed carry license?

How about an honorably discharged military person who has not held a weapon in 20 years, should they be automatically allowed a concealed carry license?

ABS/bb/je