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FISCAL IMPACT REPORT

SPONSOR <u>Wirth/Chandler/Diamond</u>	LAST UPDATED _____
	ORIGINAL DATE <u>1/24/23</u>
SHORT TITLE <u>Driver's License Suspension Penalties</u>	BILL NUMBER <u>Senate Bill 47/aSJC</u>
	ANALYST <u>Torres, J</u>

REVENUE* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
(\$26.1)	(\$286.9)	(\$31.3)	Nonrecurring	TRD Operating Fund
(\$404.6)	(\$4,450.4)	(\$485.5)	Nonrecurring	DOT Road Fund
(\$132.1)	(\$1,452.9)	(\$158.5)	Nonrecurring	Local Governments
	(\$667.7)	(\$667.7)	Recurring	MVD Suspense Fund
Indeterminate but minimal	Indeterminate but substantial	Indeterminate but substantial	Recurring	Court fee funds

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund
Total						

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Administrative Hearings Office (AHO)

Taxation Revenue Department (TRD)

SUMMARY

Synopsis of SJC Amendment to Senate Bill 47

The Senate Judiciary Committee Amendment to Senate Bill 47 replaces the word “may” with “shall” on page 2, line 11, making it clear a person whose driver’s license was suspended solely for nonpayment for failure to appear and who is otherwise eligible to drive *shall* have their driver’s license reinstated.

Synopsis of Original Senate Bill 47

Senate Bill 47 would remove the existing requirement the Motor Vehicle Division (MVD) suspend driver’s licenses for failure to appear in court or for nonpayment of a penalty assessment. If drivers have been suspended for said reasons and are otherwise eligible, MVD must reinstate their licenses as of September 1, 2023. The bill also clarifies the Administrative Hearings Office must conduct license suspension hearings within 20 business days of the hearing request date.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed.

FISCAL IMPLICATIONS

TRD bases the loss in annual revenue from the elimination of the reinstatement fee on the average of the total collected for the last six years. This may overstate the loss because only licenses suspended for failure to appear or pay are affected. However, in analysis provided for Senate Bill 7 of 2021, the final version of which is substantially identical to SB47, TRD estimated much larger annual losses—\$1.616 million. It is unclear why the current estimate is a fraction of the original. The analysis uses the more conservative estimate.

The initial losses from failing to collect fees for already suspended licenses is based on the \$6.753 million estimated included in analysis of the 2021 legislation, an estimate more in keeping with \$4.28 million figure developed by Fines and Fees Justice Center, a group that advocates for the elimination of court fees and fines. The total impact is estimated to occur over the course of a year, with 1/12 of the impact occurring in FY23. The recurring impact is estimated to be a tenth of the current backlog.

TRD based its estimate of nonrecurring costs on the number of unique driving records that included a suspension for failure to pay or appear. That number has grown from 250,081 in 2021 to more than 308 thousand. Again, the estimate in the fiscal impact tables is likely conservative. TRD broke down the distribution of the losses in its analysis:

The reinstatement fee charged for the suspension type is \$27. Of the \$27 fee, \$25 is disbursed to the State Road Fund at 74.65 percent, and 25.35 percent is split between counties and municipalities. The remaining \$2 administrative fee is split between the State Road Fund at \$0.75, and \$1.25 goes to TRD’s Operating Fund.

The Administrative Office of the Courts (AOC), along with AHO, suggest the courts could see a significant drop in fees paid absent the threat of a driver’s license suspension. According to the

two agencies, 13,698 drivers failed to appear in the magistrate courts as ordered but 72 percent of those reported to MVD appeared and complied with court requirements. Court fees vary and the number of drivers reported to MVD is unknown, but the loss of a hypothetical \$100 fee by 72 percent of all drivers who failed to appear would represent a total of \$986 thousand. From AOC: “Given the effectiveness of this compliance tool the courts anticipate a decrease in compliance with court orders if the bill passes as written.”

Finally, while Senate Bill 47 makes no changes to existing timelines for administrative hearings for drivers whose licenses are suspended—MVD is statutorily required to notify drivers of their right to a hearing whenever a license is suspended—the initial compressed timeline for MVD to reinstate driving privileges could lead to short-term increase in hearing requests for AHO. AHO contends, if MVD is unable to develop a process to reinstate licenses under the tight statutory deadline, any delay in reinstating licenses might result in a surge of additional hearings. The financial impact on the office is likely to be minimal.

SIGNIFICANT ISSUES

AOC contends New Mexico license suspension is one of the most effective enforcement mechanisms for the payment of driving citations and for mandated court appearances and argues eliminating this enforcement mechanism would have repercussions on the entire judicial system.

While MVD notes license suspension can compound existing problems for a driver already struggling to pay court fees, making it more difficult to generate the income to pay the court fees or the reinstatement fee, other states have addressed the problem by reducing fees for indigent drivers. It contends eliminating license suspension as outlined in the bill could, because it eliminates the incentive to pay fines or meet court requirements, lead to a driver accumulating numerous citations until the driver loses driving privileges through an accumulation of points or is arrested for outstanding court violations. MVD recommends eliminating the reinstatement fee but leaving the threat of suspension in place.

PERFORMANCE IMPLICATIONS

AHO historically receives very few hearing requests under Section 66-5-30 NMSA 1978. If AHO received even a temporary, significant number of requests under this provision, the agency could struggle to address the significant number of Implied Consent Act/DWI license revocation hearings and tax protest hearings on its docket. Its effectiveness in adjudicating tax protests and DWI hearings is the focus of its performance measures. AHO raises concerns it may face a large hearing backlog if several licensees request reinstatement immediately prior to the September 1, 2023, license reinstatement deadline. AHO is also concerned about the 20-day hearing requirement and would prefer a 30-day timeline. Because AHO must mail notice at least eight days prior to the hearing to meet statutory due process requirements, the requirement to hold a hearing within 20 business days only allows 12 business days to schedule and conduct the actual hearing.

ADMINISTRATIVE IMPLICATIONS

MVD says the focus of Senate Bill 47 and a specific subgroup of driver’s license suspensions will complicate administration of the proposal and make changing the processes involved more

complex. It further notes it will have to modify the 308,960 records in its system related to nonpayment and failure to appear suspensions.

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TECHNICAL ISSUES

AOC reports judges are required by Section 6-8-135(G) NMSA 1978 to report certain traffic records to MVD. One of the required records is the record of any person who has failed to appear pursuant to a signed promise to appear or an order to appear. The penalty for any judge who fails to make this notification is removal from office. The bill does not remove this requirement for resident drivers and will require the courts to continue to gather, monitor, and report this information without reason.

ALTERNATIVES

From AOC:

The New Mexico Legislature will undertake a significant fee reform measure this year, sponsored by Micaela Lara Cadena, which will address post adjudication fees assessed by state courts. If passed, this measure will reduce the financial burden on New Mexico drivers who are convicted of a moving violation.

Similar to MVD's suggestion the reinstatement fee be eliminated but not the potential for suspension, AOC recommends reducing the license reinstatement fee for court-compliant drivers and eliminating the fee for those who have paid the fee in another jurisdiction pursuant to applicable law. MVD also suggests not collecting the reinstatement fee for existing suspensions and eliminating the fee for suspensions after September 1, 2023.

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