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FISCAL IMPACT REPORT

ORIGINAL DATE 03/02/11

SPONSOR Garcia, M.J. LAST UPDATED _____ HB _____

SHORT TITLE Unmarked Vehicle Use Certification SB 495

ANALYST Segura

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	None		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to
 Duplicates Appropriation in the General Appropriation Act
 Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	N/A			

(Parenthesis () Indicate Revenue Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Public Safety (DPS)

SUMMARY

Senate Bill 495 amends Section 15-8-6, NMSA 1978. The amendment proposes to require the head of a law enforcement agency to annually certify the agency owned vehicles that it may have identified for the use of undercover law enforcement purposes. In addition, it requires exemptions for vehicles identified for law enforcement purposes and creates a penalty for violating the requirements of the subsection.

FISCAL IMPLICATIONS

According to DPS there would be a fiscal impact to DPS and other law enforcement agencies based on the new language proposed in the bill, “a violation of this subsection is punishable as a misdemeanor pursuant to Section 66-8-7 NMSA 1978.”

SIGNIFICANT ISSUES

DPS raises the issue that needs to be addressed pertains to the term “legitimately necessary” as used in the amendment. The term needs to be defined in the statute or amendment and if left undefined could be a matter of interpretation by the law enforcement agency. According to DPS the language is so vague that attempting to hold a law enforcement agency criminally accountable could prove to be impossible.

The New Mexico Taxation and Revenue Department is responsible to issue, monitor, and regulate the use of undercover license plates and registrations for the state’s law enforcement community.

PERFORMANCE IMPLICATIONS

DPS is concerned that per statute, violations of the motor vehicle code generally apply to the operator of the vehicle but the proposed amendment in Senate Bill 495 suggests that it would be the head of the agency that would be or could be in violation of the annual certification requirement. It would be a question of law if the agency head could be held accountable for a violation of the motor vehicle code when in fact the vehicle is being operated and in possession of a specific individual government employee.

ADMINISTRATIVE IMPLICATIONS

Potential administrative implications to the New Mexico Taxation and Revenue Department.

RS/mew