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## FISCAL IMPACT REPORT

SPONSOR Taylor, TC DATE TYPED 2/4/2004 HB 510

SHORT TITLE Criminal History Background Check Fees SB \_\_\_\_\_

ANALYST Valenzuela

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			Indeterminate*	Recurring	Local Governments

(Parenthesis ( ) Indicate Expenditure Decreases)

\*Given that local law enforcement agencies are a primary customer of DPS for criminal background checks, these agencies will face budget increases.

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	(\$630.0)	(\$630.0)	Recurring	General Fund
	\$1.7 million*	\$1.7 million	Recurring	DPS Operating Fund

(Parenthesis ( ) Indicate Revenue Decreases)

\*\*Revenue estimates are based on 90,000 criminal background checks requested to be conducted every year. The bill would increase the DPS portion of the fee by \$17.00, multiplied by 90 thousand background checks, to total \$1.7 million.

### SOURCES OF INFORMATION

- “Department of Public Safety Budget Recommendation,” Report of the Legislative Finance Committee to the 46<sup>th</sup> Legislature, January 2004, pp. 646 – 658.
- Governor Bill Richardson’s Performance Review, *Moving New Mexico Forward: New Ways to Save Money and Improve Customer Service in State Government*, Volume II, August 2003, pp. 173 – 176.

No Response

Department of Public Safety

## SUMMARY

### Synopsis of Bill

House Bill 510 would increase the DPS fee for criminal background checks up to \$26.00/background check. Additionally, the bill would allow the department to use this funding, without seeking legislative appropriation, to defray the administrative costs of maintaining and updating law enforcement records. House Bill 510 carries an emergency clause.

### Significant Issues

HB510 implements a recommendation made by Governor Richardson in the *Moving New Mexico Forward* policy document. The recommendation would increase the fee charged to local law enforcement agencies, the courts, and district attorney's, the primary users of this system<sup>1</sup>, for criminal background checks.

## FISCAL IMPLICATIONS

House Bill 510 proposes a 58.8 percent increase in the current fee for background checks. Given the number of background checks performed, the fee increase could generate \$1.7 million for DPS. However, this funding currently goes to the general fund. The diversion of these fees to DPS will decrease the general fund by \$630 thousand. The table below shows a breakout of the fee and beneficiaries of the revenue:

	Existing	Proposed
	<u>Fee</u>	<u>Fee</u>
Goes to FBI	\$ 24.00	\$ 24.00
Goes to DPS	7.00	26.00
Goes to Contractor <sup>2</sup>	<u>3.00</u>	<u>3.00</u>
	\$ 34.00	\$ 54.00

### Continuing Appropriations

This bill provides for continuing appropriations to DPS. The LFC objects to including continuing appropriation language in the statutory provisions. Earmarking reduces the ability of the legislature to establish spending priorities.

## OTHER SUBSTANTIVE ISSUES

*Performance and Accountability.* Rather than divert the funding away from the general fund, the Legislature could require DPS to provide quarterly performance reports on background checks and backlogs, so that the Legislature could devise budget, policy and performance strategies, with the department, to address this problem. A special appropriation from the general fund for DPS could be tied to such reporting. Currently, DPS does not provide performance measures, targets or reporting to the Legislature on this problem.

## MFV/lg

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<sup>1</sup> DPS reports in *Moving New Mexico Forward* that of the 180,000 background checks requested every year, half of them are generated from law enforcement or criminal justice agencies.

<sup>2</sup> This portion of the fee goes to a private company, which provides outside electronics access.