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FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/10
 SPONSOR HJC LAST UPDATED 02/07/10 HB 207/HJCS
 SHORT TITLE Interlock Fund Eligibility SB _____
 ANALYST Wilson

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Non-Rec | Fund Affected |
|---------------|----------|-------------------------|------------------|
| FY10 | FY11 | | |
| | \$300.0* | Recurring | DWI Fund |

(Parenthesis () Indicate Expenditure Decreases)

*\$300.0 of the liquor excise tax revenues distributed to the local DWI grant fund is appropriated to the TSB for the interlock device fund to cover the costs of installing and removing ignition interlock devices for indigent people. Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Non-Rec | Fund Affected |
|-------------------|-----------|---------|-------------------------|--------------------------|
| FY10 | FY11 | FY12 | | |
| | \$300.0 | \$300.0 | Recurring | Interlock Device Fund |
| | \$600.0** | \$650.0 | Recurring | Interlock Device Fund |

(Parenthesis () Indicate Revenue Decreases)

** Estimated fees from non-indigents for installation of interlock devise

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY10 | FY11 | FY12 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|--------------|------|--------|--------|----------------------|-------------------------|-----------------------------|
| Total | | \$42.5 | \$42.5 | \$ 85.0*** | Recurring | Interlock Device Fund |

(Parenthesis () Indicate Expenditure Decreases)

***Estimated increase for administrative costs from 5% to 10%

Relates to HB 65, HB 115, HB 139, SB 170, and SB 176.

SOURCES OF INFORMATION

LFC Files

Response Received From

Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

The House Judiciary Committee Substitute for House Bill 207 provides that the Traffic Safety Bureau (TSB) of DOT shall determine eligibility for assistance from the interlock device fund because of indigence. This bill will also increase the percentage allowable for administrative costs for the oversight and management of the fund by the TSB from five to ten percent of the interlock device fund. This increases the amount that the TSB may use yearly for administration.

Provided that money is available in the Interlock Device Fund, the TSB shall pay for one vehicle per offender up to \$50 for the cost of installation, up to \$50 for the cost of removal and up to \$30 monthly for verified active usage of the interlock device. TSB shall not pay any amount above what an offender would be required to pay for the installation, removal or usage of an interlock device.

Indigence is determined by the TSB based on proof of enrollment in one or more types of public assistance: temporary assistance for needy families, general assistance, food stamp program, supplemental security income, a federal food distribution program on an Indian reservation or other criteria approved by the TSB.

An offender who obtains an ignition interlock license and installs an ignition inter lock device prior to conviction shall be given credit at sentencing for the time period the ignition interlock device has been in use.

FISCAL IMPLICATIONS

Funding for the program is provided through the \$100 interlock fee imposed on non-indigent DWI offenders and an annual appropriation of \$300,000 from the alcohol excise tax channeled through the Department of Finance and Administration.

The TSB ignition interlock indigent device fund is in danger of becoming insolvent due to the increase in the number of convicted DWI offenders who are accessing the fund. DOT collects \$100 from non-indigent DWI offenders and reimburses approximately \$580 for every non-indigent offender. This bill will help by creating standards for indigence and requiring proof of indigence based on those standards.

The number of interlock installations has grown from 1,500 in 2004 to over 9,000 in FY09. Approximately 33% of these offenders have been declared indigent for the purpose of the interlock. In 2009, the TSB received approximately \$850,000 for the fund and reimbursed over \$1.3 million for indigent offender services. Since 2007 DOT has paid out over \$3.3 million and collected approximately \$2 million. The shortfall has been covered by funds carried over from previous years.

DOT does not have any other revenue source that can supplement the subsidy for indigent DWI offenders.

SIGNIFICANT ISSUES

The indigent fund currently covers the installation, half the cost of the equipment lease, and removal of the interlock device. DOT is required to reimburse the interlock providers for

offenders determined indigent by the TSB. Currently there is no objective standard for the determination of indigence.

DOT has received input from Magistrate and Municipal judges who support the move from the courts to the TSB for determination of indigence.

ADMINISTRATIVE IMPLICATIONS

DOT has one full-time employee designated to the collection and payment from the indigent fund for 7 manufacturers, 58 service centers in 21 cities, and mobile service centers in 40 additional locations. An increase to the amount available for administrative oversight of the program will assist with the increased duties of the TSB. Based on 2009 revenue of \$850,000 the administrative funding for TSB will increase from \$42,500 to \$85,000.

RELATIONSHIP

This bill relates to:

- HB 65, Increase Certain Vehicular Homicide Penalties
- HB 115, DWI License Revocations & Interlocks
- HB 139, Expungement of Certain DWI Records
- SB 170, Ignition Interlock License Plates
- SB 176, Use of DWI Convictions for Sentencing

OTHER SUBSTANTIVE ISSUES

The number of alcohol-involved crash fatalities in New Mexico has decreased 35% since 2003 and the State is no longer ranked in the top 10 states for DWI deaths. The State's comprehensive DWI deterrence efforts credited with bringing about this dramatic decrease include intense enforcement and public awareness efforts, mandatory ignition interlocks for all offenders, innovative DWI adjudication efforts, mandatory treatment for second and subsequent offenders, and local DWI prevention efforts.

According to research supported by the National Highway Traffic Safety Administration and the Pacific Institute for Research and Evaluation, the rate of repeat DWI offenses by ignition interlocked offenders is 65-80% lower than non-interlocked DWI offenders.

New Mexico currently has more installed interlocks per capita than any other state or nation.

New Mexico was the first state to require mandatory ignition interlock use for all DWI offenders in 2005, and the national office of Mothers Against Drunk Driving (MADD) embraced the State's ignition interlock requirement as a model program. To date, more than 10 states modeled and passed ignition interlock laws similar to New Mexico.

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