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FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/12
 SPONSOR Lewis LAST UPDATED 02/03/12 HB 108
 SHORT TITLE Increase Certain DWI Penalties SB _____
 ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			\$7,322.4	\$7,322.4*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

***Costs to incarcerate inmates convicted of sixth and subsequent DWI offenses will continue past FY14**

Conflicts with HB27, Companion to HB158 and SB297, Duplicates SB297

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 New Mexico Corrections Department (NMCD)
 Department of Transportation (DOT)
 Taxation and Revenue Department (TRD)
 Department of Public Safety (DPS)
 New Mexico Sentencing Commission (NMSC)

SUMMARY

Synopsis of Bill

House Bill 108 proposes to increase the penalties for DWI outlined in Section 66-8-102 NMSA 1978. For a fourth DWI conviction, which is already a fourth degree felony, the term of imprisonment would increase from eighteen to thirty months. For a fifth DWI conviction, which is already a fourth degree felony, the term of imprisonment would remain three years, but the portion which cannot be suspended, deferred or taken under advisement would increase from one year to two years. For a sixth DWI conviction, the term of incarceration for this third degree felony would increase from thirty months to forty two months, and the period which cannot be suspended, deferred or taken under advisement would increase from eighteen months to thirty months. For a seventh DWI conviction, the term of imprisonment for this third degree felony would increase from three years to four years, and the period which cannot be suspended, deferred or taken under advisement would increase from two to three years. For an eighth or

subsequent DWI conviction, the bill would make the conviction a second degree felony pursuant to with a term of incarceration of twelve years, ten years of which could not be suspended, deferred or taken under advisement.

FISCAL IMPLICATIONS

The New Mexico Corrections Department (NMCD) reports that it currently incarcerates 250 inmates in its custody convicted of a fourth or subsequent DWI. If the Governor and Legislature choose to pass this bill in the interests of enhancing public safety, the bill will impact NMCD.

The New Mexico Sentencing Commission (NMSC) reports that on June 30, 2011 the NMCD had

- 44 offenders committed to the custody of the NM Corrections Department had a fourth conviction for DWI as their highest charge.
- 64 offenders committed to the custody of the NM Corrections Department had a fifth conviction for DWI as their highest charge.
- 56 offenders committed to the custody of the NM Corrections Department had a sixth conviction for DWI as their highest charge.
- 74 offenders committed to the custody of the NM Corrections Department had a 7th or subsequent conviction for DWI as their highest charge.

If the number of convictions for fourth and subsequent DWI offenses continues to mirror those of June 30, 2011, the impact to the NMCD will be felt the latter half of FY14. The 238 inmates will cost the department \$7.3 million and will likely remain steady if treatment is not a part of the solution.

Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

As penalties become more severe, defendants may invoke their right to trial and their right to trial by jury. More trials and more jury trials will require additional judge time, courtroom staff time, and courtroom availability and jury fees.

One of the Department of Transportation's (NMDOT) goals is to reduce motor vehicle related DUI crashes, injuries, and deaths. The NMDOT reports that increasing penalties for repeat DUI offenders would reduce recidivism and help the NMDOT reach its safety goals. However, leading experts at the National Conference of State Legislatures, the Pew Institute, and American Correctional Association, American Civil Liberties Union, US Department of Justice, VERA Institute of Justice, National Institute of Corrections, the Center for Effective Policy and the Urban Institute all agree that treatment needs to be part of the solution because incarceration has proven not to be an effective deterrent.

PERFORMANCE IMPLICATIONS

This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type.

The NMDOT Programs and Infrastructure Program measures include one measure impacted by DWI-related offenses

- Number of alcohol-related traffic fatalities.

ADMINISTRATIVE IMPLICATIONS

The NMCD reports prison staff vacancies at approximately 21 percent. If the bill will eventually increase the inmate population substantially, it will eventually increase the workloads of current prison staff.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB27.
Related to HB158.

ALTERNATIVES

None. Stiffer penalties for DWI crimes appear to be needed to enhance public safety and to deter further DWIs.

ABS/lj:amm