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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/17

SPONSOR Sharer LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Increase DWI Penalties SB 174

ANALYST Sánchez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	378.0	378.0	Recurring	Other State Funds

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Indeterminate Increase	Indeterminate Increase	Indeterminate Increase	Recurring	General Fund/Other State Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB22, HB49, HB74, HB129, HB271, HB300 and SB238

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Administrative Hearing Office (AHO)  
 Taxation and Revenue Department (TRD)  
 New Mexico Department of Transportation (NMDOT)  
 Public Defender Department (PDD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 174 proposes to amend the Motor Vehicle Code, Section 66-8-102 NMSA 1978. It

- Increases the fee for DWI comprehensive community programs from \$75 to \$100 for a first offense

## **Senate Bill 174 – Page 2**

- Increases the fee for a second offense from \$75 to \$200;
- Increases the fee for a third or subsequent offense from \$75 to \$300;
- Increases the community service hours for the first offense from not less than 24 hours to not less than 80 hours;
- Increases the jail sentence for a second conviction from 48 hours to 160 hours; and
- Increases the community service hours for a third conviction from not less than 96 hours to not less than 240 hours.

The bill has an effective date of July 1, 2017.

### **FISCAL IMPLICATIONS**

The New Mexico Department of Transportation (NMDOT) estimates SB174 would increase the average yearly revenue for the Community DWI (CDWI) program \$378 thousand per year based on 4,500 first offense DWI convictions, 1,500 second offense DWI convictions, and 350 third and subsequent offense DWI convictions.

The Administrative Office of the Courts (AOC) reports that SB174 would increase the probation compliance monitoring requirements of the courts. First, second, and third DWIs are tried and sentenced by the magistrate courts. The magistrate courts, except in very limited circumstances, do not have the ability to sentence a probationer to monitoring by the Probation and Parole office. Some, but not all, magistrate courts have county compliance offices which will monitor misdemeanor probationers. Some magistrate courts have to do their own probation monitoring. Increasing the community service hours for misdemeanor DWIs would increase the amount of time it takes probationers to complete this requirement, and the amount of time the courts are required to monitor and verify completion. It would also increase the likelihood that probationers would fail to complete this requirement, because more hours would give probationers more opportunities to get off track with requirements. This would lead to more probation violation hearings and court time required to address these issues. Therefore, SB174 has the potential to increase court workloads, without the additional resources necessary to handle the increase.

### **SIGNIFICANT ISSUES**

AOC notes that some jurisdictions are limited in the number of locations where community service hours may be performed. Increasing the number of required community service hours may create an additional strain in areas where demand may outweigh supply.

The Public Defender Department (PDD) states that attaching the costs of DWI prevention to those who are actually convicted of the offense is an understandably attractive proposition; however, increasing fees may increase non-payment by indigent offenders, which commonly leads to warrants and county jail time.

### **PERFORMANCE IMPLICATIONS**

This bill may have positive impact on NMDOT's performance measures: reduction of alcohol related traffic crashes and fatalities.

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The bill will impact on the following performance measures for the Magistrate Courts:

- Cases disposed of as a percent of cases filed and
- Amount of case fines and fees collected, in millions.

### **ADMINISTRATIVE IMPLICATIONS**

The courts will need added judicial and clerical time needed to monitor and dispose of cases resulting from SB174.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to HB22 DWI for Certain Drugs & Interlocks, HB49 DWI Interlock Requirements, HB74 Sentencing of Felony DWIs, HB129 DWI Blood Test Requirements, HB271 Driving Under Influence of Liquor or Drugs, HB300 No Alcohol Sales for Persons with Interlocks, and SB238 DUI Penalties and Changes

ABS/jle