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FISCAL IMPACT REPORT

SPONSOR:	Larrañaga	DATE TYPED:	02/13/00	HB	199/aHJC/aHAFC
SHORT TITLE:	Law Enforcement Telecommunications Systems			SB	
				ANALYST:	Trujillo

REVENUE

Estimated Revenue		Subsequent	Recurring	Fund
FY00	FY01	Years Impact	or Non-Rec	Affected
		See Narrative		

(Parenthesis () Indicate Revenue Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

LFC files

Department of Public Safety

Corrections Department

Juvenile Parole Board

Children Youth and Families

Attorney General

Public Defender Department

General Services Department

Agencies not responding to request include:

Administrative Office of the Courts

Administrative Office of the District Attorney's

Bernalillo Metro Court

Department of Finance and Administration

Municipal League

Association of Counties

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to HB 199/aHJC strikes "MAKING AN APPROPRIATION" in the title and removes Section 2 in its entirety, which contained language to create the "law enforcement telecommunications fund" and also provided for fee deposits to the fund.

Synopsis of HB199/aHJC

On page 1, strike Section1 in its entirety and insert thereof the following new section:

"Section 1. LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEMS-ACCESS FEES-AMOUNT OF ACCESS FEES.--

A. During fiscal year 2001, the department of public safety may charge local, state and federal law enforcement agencies, criminal justice agencies and other users a monthly access fee for access to the department's law enforcement telecommunications systems. During fiscal year 2001, the access fee shall be set by the secretary of public safety in the amount not to exceed the actual cost of providing users access to telecommunications systems.

B. During fiscal year 2001, the department of public safety shall meet with representatives of all users of the department's law enforcement telecommunications systems to develop a recommendation for the legislature's consideration concerning the amount of the access fee during fiscal year 2002 and subsequent fiscal years.

HB45/a and HB199/a are similar to the extent that both bills will allow DPS to charge and expend fees. According to DPS, the New Mexico Law Enforcement Academy currently charges fees for tuition and room and board for advance training and special session classes offered at the academy. The academy also collects classroom rental charges from agencies who use the training facilities. Fees have been established by the New Mexico Law Enforcement Academy Board pursuant to Section 29-7-4 NMSA 1978. **Section 29-7-12 NMSA 1978 prohibits the academy from charging "local public bodies or New Mexico Indian tribes or pueblos for any expenses associated with providing basic law enforcement training programs..."**. Section 29-7-6.1 NMSA 1978 provides that "A county sheriff's per diem, mileage and tuition expenses attributed to attendance at the administrative law enforcement training shall be paid for by the governing body of the county served by that sheriff."

This amendment may impact agencies currently assessed a fee since the amount set forth by the secretary of the department of public safety may be an arbitrary number. Staff is concerned that the fees set forth by the secretary of public safety conflict with the statutory requirements related to the Training and Recruitment fees such as **Section 29-7-12 NMSA 1978 prohibits the academy from charging "local public bodies or New Mexico Indian tribes or pueblos for any expenses associated with providing basic law enforcement training programs..."**. and may impact local municipalities, state and federal law enforcement agencies, criminal justice agencies and other users of a monthly

access fee.

Synopsis of Bill

HB199 was initiated by the Department of Public Safety (DPS) in order to have statutory authority for charging Law Enforcement Telecommunications Systems (NMLETS, NLETS, NCIC) users a monthly fee for telecommunications circuits.

Significant Issues

DPS reports the statutory authority is essential to charge access fees to users of the telecommunications systems to cover the costs of operating the systems.

The General Services Department (GSD) reports:

- Creating a separate "internal service fund" and authorizing payment for operations, maintenance and expansion of an agency's communication system duplicates current authority provided to the General Services Department.
- GSD has historically been appropriated internal service funds to operate and manage state networks on behalf of all state agencies.
- The strategic direction of the Chief Information Officer is to consolidate the management of major networks to allow the state to benefit from economy of scale, technology innovations, and provide better security for the state's data and networks.

According to LFC Audit staff, the CIO does not have any planning done in the single network concept.

FISCAL IMPLICATIONS

DPS reports this bill will have a positive fiscal impact on DPS. Without this authority, DPS can no longer charge user fees. This means that DPS cannot continue to operate the telecommunications systems which provide access to the National Crime Information Center (NCIC) and the National

Law Enforcement Telecommunications System (NLETS).

DPS reports the amount of revenue will be approximately \$559.9. While these are not new revenues, this bill provides the statutory authority for collecting these revenues.

DPS has indicated they used \$523.3 of these fees in FY99, and will use \$559.9 in the current fiscal year. The collections of these revenues are not authorized statutorily. Section 6-4-2 states: There is created a fund to be known as the "general fund" to which the state treasurer shall credit all revenues not otherwise allocated by law. Expenditures from this fund shall be made only in accordance with appropriations authorized by the legislature. DPS has failed to deposit these revenues into the general fund.

DPS reports there is no effect on federal appropriations.

Table is scored on current law which indicates all revenues received shall be deposited in the general fund unless specified by statute. Current practice does not deposit this revenue into the general fund.

Corrections Department (CD) indicates there the is a Joint Powers Agreement (JPA) with DPS which precludes payment of fees. There will be no fiscal impact to CD as long as the JPA with DPS remains in effect.

GSD reports fiscal impact stems from duplicative activity. The precise impact is hard to estimate. However, of the current annual cost of about \$8.0 million, a 20% impact would amount to \$1.6 annually. According to GSD treating the Law Enforcement Telecommunications Fund as a reverting fund would unfairly tax entities contributing to the fund in the event billings exceed the cost of providing the access.

Children Youth and Families reported it may be required to pay the monthly access fee for any use of the telecommunications systems.

The Administrative Office of the District Attorney's (AODA) reports the fiscal impact on the DAs

is minimal as AODA pays all yearly fees for all DAs every fiscal year. The fiscal impact shall remain minimal for AODA as long as these fees are funded in AODA's budget each year.

AODA recommends DPS not collect these fees in the same year they must be used because this is a very difficult way to administer a budget. In addition, consideration should be given to making this fund a non-reverting fund so these fees will always be used towards the system.

ADMINISTRATIVE IMPLICATIONS

DPS reports there is no administrative impact.

The administrative impact on the DA's Offices is that they will continue to benefit directly from this system. The DAs are currently one of the users of this system and they rely heavily on this and other investigative tools to help in their law enforcement and prosecutorial efforts.

TECHNICAL ISSUES

DPS reports HB199 only addresses the authority to collect monthly access fees for each circuit location. This is the bulk of the costs. However, DPS also charges a non-terminal originating agency identifier (ORI) fee and charges fees to agencies that use Mobile Data Terminals. DPS reports HB199 needs to be amended to remove the wording "... ~~a monthly access fee for each circuit location to...~~". The amended sentence should read, "The department of public safety may charge local, state and federal law enforcement agencies, criminal justice agencies and other users for the cost of providing access to the department's law enforcement telecommunications systems."

AODA recommends this fund be non-reverting to insure the fees collected are used to support this system and nothing else. AODA also states the bill should not require DPS to collect the fees in the same year they are to be expended.

OTHER SUBSTANTIVE ISSUES

DPS did not provide information such as:

- •How much it is costing the agency in FY00 and FY01 to operate this system?
- •What percentage is being used by other agencies?

LFC audit staff indicated if the agency does JPAs for cost savings they could simply reduce their cost by reimbursements. There is no need for HB199 and any funding left over will revert.

DPS reports they can no longer operate the telecommunications system and will have to either have additional funds appropriated by the legislature or shut down the law enforcement telecommunications system which means it will deny access to NCIC and NLETS.

GSD reports HB199 preempts activity underway in the executive branch. The Chief Information Officer has indicated that a single network management function is needed. A technical study is currently underway and the results of the study will cover how a single network management function would operate, and how it will benefit state operations.

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