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FISCAL IMPACT REPORT

SPONSOR: Snyder DATE TYPED: 1/31/03 HB _____

SHORT TITLE: Drug and DWI Court Expansion SB 90

ANALYST: Hayes

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	\$2,042.3			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB91 and SB92

SOURCES OF INFORMATION

Responses Received From

Administrative Office of the Courts (AOC)

Highway and Transportation Department, Traffic Safety Bureau

Review of Drug Court Programs, September 16, 2002, Report to the Legislative Finance Committee

SUMMARY

Synopsis of Bill

Senate Bill 90 appropriates \$1,520.0 from the general fund to the Administrative Office of the Courts (AOC) to expand both juvenile and adult drug courts and DWI courts in the 2nd, 3rd, 6th, 11th and 13th Judicial District Courts; Bernalillo County Metropolitan Court (BCMC); and McKinley magistrate court.

In addition, SB90 appropriates \$522.3 from the general fund to the Administrative Office of the Courts to create new juvenile and adult drug courts and DWI courts in the 4th, 5th, 12th and 13th Judicial District Courts along with the Dona Ana magistrate court.

Significant Issues

- Drug Court Audit.** The LFC audit staff completed a review of certain drug courts in

New Mexico due to issues surrounding collection of client fees and the disposition of those fees. Here is a summary of those findings:

a) Except for Bernalillo County Metropolitan Court (BCMC), New Mexico drug courts do not have specific statutory authority to charge client fees even though they charged drug court participants anywhere from \$8 to \$425 when receiving treatment.

b) Some treatment providers were contracted to collect client fees on behalf of the court, obtain bank accounts and deposit the fees in the provider's account; however, the accounts were used by the courts to purchase items such as clothes and shoes for drug court staff, and to pay for parking, computers, palm pilots, trips, food, hotels, cameras, belt buckles, wall art, etc.

c) Drug courts do not have constitutional authority to expend fees which have not been appropriated by the Legislature. Fee revenue was not included in courts' budgets as required. In addition, some of the expenditures did not comply with state Procurement Code. In some courts, receipts were missing and capital purchases were not documented on fixed assets lists.

d) Databases vary greatly among drug courts due to different software versions, meaning that a uniform, reliable analysis of drug court performance or their cost effectiveness is difficult. Data entry by drug courts is not always complete or timely either. Courts need standardized codes and formats to ensure data integrity. LFC's audit noted that Bernalillo County Metropolitan Court was the only one in New Mexico determined to be cost-effective and providing significant savings to taxpayers.

e) Drug courts have not kept a complete accounting of total costs to operate drug courts. Consequently, previous reports of program costs submitted by the drug courts are understated. LFC auditors also recommended transferring drug court probation officers from the Department of Correction to the district courts in which they work so that court administrators and program managers can better manage funding and coordination of functions.

2. Standardization of Drug Court Policies. Another recommendation by the auditors and LFC committee members is to adopt unified policies and procedures which apply to all drug courts statewide. Although a Drug Court Advisory Committee drafted drug court standards, LFC auditors believe they fail to address the audit recommendations or procedures regarding fiscal accountability, nor does the document promulgate uniformity. Everything from collection of participant fees to written security procedures may be developed by each individual court.

3. Drug Court Administrator. The only additional drug court funding that LFC supported is for a drug court administrator position. A permanent administrator is needed not only for administrative oversight of the state's drug courts, but to assist in developing and enforcing uniform procedures. A drug court administrator could standardize and review treatment services contracts, perform audits, collect performance data, assist with grant writing and provide training.

4. Implementation of New Drug Courts. In expanding drug courts, the question arises whether or not smaller courts in New Mexico will be able to handle the workload and caseload involved with drug courts. In addition, are the judges and staff able and willing to conduct drug court sessions along with regular courtroom duties? The availability of treatment providers is also an issue in smaller communities along with courthouse facilities and staffing.

FISCAL IMPLICATIONS

The appropriation of \$2,042.3 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2004 shall revert to the general fund.

ADMINISTRATIVE IMPLICATIONS

There will be a major administrative impact on the courts, especially on judges and court administrators as the result of expanded drug courts. Caseload will increase and administrative duties for managing drug courts will become more complex. If judgeships and/or staffing at the courts do not increase, operation of drug courts could become burdensome. However, if judges and staff are willing to devote the necessary overtime to drug court, the results may be rewarding for both the participant and the taxpayer alike.

RELATIONSHIP

SB91 authorizes drug courts to collect fees from clients (up to \$160 per month) and creates non-reverting drug court funds in each court in which those fees are deposited.

SB92 appropriates general fund to certain courts whose federal grants, currently supporting drug courts, are terminating.

OTHER SUBSTANTIVE ISSUES

Funding for drug court or any other court-related program is typically funded directly to the individual court. It is suggested that SB90 be amended to appropriate specific amounts to each court mentioned in the bill, not to the Administrative Office of the Courts, and to specifically designate whether any FTE are associated with the appropriation.

POSSIBLE QUESTIONS

1. How will the proposed funding be used at these courts? Personnel? Treatment costs? (No positions are specified in the bill nor the intended purpose of the funding.)
2. How can taxpayers or legislators ensure fiscal accountability from drug courts when there are no uniform policies and procedures in place guiding such fiscal transactions?

CMH/yr