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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/21/10

SPONSOR Rehm LAST UPDATED \_\_\_\_\_ HB 46

SHORT TITLE DWI Chemical Test Fees SB \_\_\_\_\_

ANALYST Wilson

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected d
FY10	FY11		
	\$167.2	Recurring	Crime Laboratory Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	\$167.2	\$182.4	Recurring	Crime Laboratory Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 32, Relates to HB 34, SB 3, SB 4 & SB 5

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Bernalillo County Metropolitan Court (BCMC)  
 Department of Administration & Finance (DFA)  
 Department of Health (DOH)  
 Department of Public Safety (DPS)  
 Department of Transportation (DOT)  
 Health Policy Commission (HPC)

### SUMMARY

#### Synopsis of Bill

House Bill 46 amends Section 31-12-7 NMSA 1978 of the Criminal Procedure Act by increasing the fee imposed by the courts from \$65.00 to \$85.00. An individual convicted of driving while under the influence of alcohol or drugs is mandated to pay the court imposed fee, which covers

the costs of chemical and other tests that were administered in order to determine the content and/or concentration of alcohol and/or other drugs.

### **FISCAL IMPLICATIONS**

The new fee rate will increase revenue to the Crime Laboratory Fund. All balances in the Fund are appropriated to the AOC in order to render payment for laboratory costs associated with chemical and other tests. AOC distributes funds to the Scientific Laboratory Division (SLD) of DOH and the Albuquerque Police Department (APD) Crime Laboratory.

The provisions in this bill will increase the annual revenues collected by the SLD and the APD Crime Laboratory to support their DWI testing programs by up to \$139,000 and \$31,000, respectively within the next two years.

The proposed fee increase of \$20 is a 30.77% increase which, based on fee collections in FY09 of \$592,689, will amount to an increase of \$182,370 annually in additional fee revenue for SLD and APD's Crime Laboratory.

It is important to note that even though the estimated annual increase is \$182,370, the first year will be less than this estimated amount by one month due to timelines of fee deposits from courts, transfer time of fees to AOC as well as SLD and APD and fee reconciliation process. The estimated increase for the first year is \$167,172.50. The estimate for subsequent years is \$182,370.

### **SIGNIFICANT ISSUES**

Due to the increased cost of chemical and other tests that are associated with determining the impairment levels from alcohol or other drugs, this bill increases the court imposed fee to \$85.00 in order to cover the costs of such tests.

The APD Crime Laboratory performs all of the blood testing for alcohol in DWI cases for Albuquerque cases and SLD does this for the rest of the state. In addition, SLD alone performs all drugs testing for DWI throughout the state of New Mexico.

DOH notes the DWI Crime lab fee, assessed from individuals convicted of DWI, is a primary funding source for the DWI testing programs at these two laboratories. The fee has not been increased for the past 13 years, despite the increasing cost of testing to the laboratories. In addition, the Scientific Laboratory recently expanded its DWI drug test panel from 15 drugs to 90 drugs at an unreimbursed cost of almost \$200,000 per year. The APD Crime lab had to absorb the \$200-\$250 cost per case of having blood drawn from individuals arrested for DWI.

Neither laboratory has been funded for these expenses, and SLD is struggling to keep up with the demand from law enforcement and courts.

This bill will enable the laboratories to recoup unfunded required activities and properly serve the DWI programs by funding the purchase and repair sophisticated analytical equipment required to support the state DWI program. This bill will also help fund the purchase of expensive analytical reagent kits needed for alcohol and drug analysis.

**ADMINISTRATIVE IMPLICATIONS**

HB 46 will enable the SLD and the APD Laboratory to improve the response time for DWI tests conducted.

**DUPLICATION, RELATIONSHIP**

HB 46 is a duplicate to SB 32, DWI Chemical Test Fee Increase.

HB 46 relates to the following:

- HB 34, Liquor Surtax to School Fund, imposing a new Alcohol Surtax on the retail sale of alcoholic beverages to consumers.
- SB 3, DWI Incarceration Requirements, requiring an offender to complete his or her incarceration terms without an option of replacing incarceration time with electronic monitoring or community supervision.
- SB 4, DWI Plea Agreements & Refused Chemical Tests, mandating a plea of guilty for any violation of Section 66-8-102 when an individual refuses to submit to a chemical test.
- SB 5, Increase DWI Penalties & Fines, imposing longer imprisonment terms with limited time that is permitted to be suspended, deferred or taken under advisement, and higher fines. The bill also determines that a third and fourth DWI conviction is a fourth degree felony and a fifth or a subsequent DWI conviction is a third degree felony.

DW/mt:svb