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FISCAL IMPACT REPORT

SPONSOR SFC ORIGINAL DATE _____
LAST UPDATED 02/17/10 HB _____
SHORT TITLE _____ SB CS/CS/275/aSFC
ANALYST Weber

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	\$450.0 to \$750.0	\$450.0 to \$750.0	Recurring	State Police Recruiting Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

Taxation and Revenue Department (TRD, MVD)

SUMMARY

Synopsis of Senate Finance Committee Amendment for Substitute for Senate Finance Committee Substitute for SB 275

On page 3, between lines 12 and 13, insert the following:

Section 2. Delayed Repeal—Section 1 of this act is repealed effective July 1, 2015.

Section 3. Effective Date—The effective date of the provisions of this act is July 1, 2010.

The above provide a sunset provision but appear to be inserted at an incorrect page and line.

Synopsis of Senate Finance Committee Substitute for Senate Finance Committee Substitute for SB 275

Senate Finance Committee Substitute for Senate Bill 275 proposes a new section of the Department of Public Safety Act.

1. The “public safety recruiting fund” is created in the state treasury.
2. The fund is to be used for the training and recruiting division of DPS to recruit personnel

for the New Mexico State Police and the Motor Transportation Division.

3. All money in the fund is appropriated to DPS for carrying out recruiting for those divisions.

Added to Magistrate Costs Section 35-6-1 NMSA 1978 Item D. This is a \$10.00 fee for violating any provision of the Motor Vehicle Code as cited by a uniformed DPS officer.

Added to Magistrate Administration Section 35-7-4 is item H. This directs the Magistrate courts to submit to the Administrative Office of the Courts all funds collected by the \$10.00 fee from Section 35-6-1 NMSA Item D for credit to the public safety recruiting fund.

Added to Penalty Assessment Misdemeanor—Additional Fees Section 66-8-116.3 Item H. This adds a public safety recruiting fee of \$10.00 for a penalty assessment misdemeanor citation issued by a uniformed officer of DPS.

Added to Penalty Assessment Revenue—Disposition Section 66-8-119 is Item (7). This directs MVD to submit to the state treasurer the fees collected in H. above to the public safety recruiting fund.

FISCAL IMPLICATIONS

Since this essentially creates a revenue stream based on a traffic citation surcharge of \$10.00 to the new DPS Public Safety Recruiting Fund. AOC reports that for fees of similar amount collected for citation written by all law enforcement agencies would produce approximately \$3 million annually. This bill, however, limits the fee to citations written by DPS law enforcement officers. Data is not currently available isolating the DPS citations. Using an estimate that DPS issues 15-25 percent of all applicable citations would produce \$450,000 to \$750,000 per year. Motor Vehicle division may need IT funding to direct these fees to the State Police recruiting fund as now fees of this nature go to the general fund.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

TRD notes the impact on TRD-ITD and other divisions of TRD will be substantial, including approximately 720 hours of IT staff time and other costs that cannot be readily determined at this time. AOC echoes these concerns and is not certain its data systems can isolate the citations issued by DPS which is an essential element of the bill.

The annual cost of recruiting and the state police academy approaches \$1,000.0 annually.

SIGNIFICANT ISSUES

The question could be raised that many law enforcement agencies have recruiting and retention issues that a similar the fee could help alleviate. It is uncertain why the additional fee is only applicable to DPS.

However, for State Police officers this could create a conflict of interest for the issuing officer and DPS generally. Under this scenario, DPS is the direct beneficiary of a citation creating a

situation where writing too many is good for the agency's revenue. A piece work mentality could result fogging the impartiality of the officers' and DPS's judgment in favor of revenue generation.

While recruiting qualified officers is a continuing issue for DPS, it appears funding for established positions is an even greater problem. The DPS Law Enforcement Program budget request reflected 90 State Police vacancies out of 605 positions and 15 Special Investigations vacancies out of 31 positions. In addition, the Motor Transportation Program had 32 vacancies out of 154 positions, a vacancy rate of 20 percent. With budgeted vacancy rates at over ten percent none of the law enforcement entities will operate at a level even close to fully authorized capacity. Consideration may be given to expanding the use of the funds from just recruiting to personal services/employee benefits generally as well as including other important law enforcement disciplines at DPS.

DPS expressed concern that the revenue may be used to supplant the general fund appropriation to the agency. To allay those fears, consideration could be given to a hold harmless provision, essentially a maintenance-of-effort requirement that guarantees a certain minimum appropriation from the general fund to the DPS Law Enforcement Program. If FY10 is used as the base, the maintenance-of-effort would be \$67,852.5, the net amount after the \$1,737.1 executive order reduction is subtracted from the original \$69,489.6 operating budget general fund number. While this addresses DPS's fears, it brings into question why other areas of public interest such as corrections, education and Medicaid to mention only a few, are not afforded the same or similar protections.

As an alternative to creating a new fund and focusing only on one state agency, provisions of the established Law Enforcement Protection Fund could be changed to include DPS. If the \$10.00 fee was extended to all law enforcement agencies then an estimated \$3 million would be generated adding to the established revenue stream of the Law Enforcement Protection Fund for distribution to many entities. DPS would need to be added to the eligible recipients but this direction would have the advantage of building on an existing mechanism rather than expanding the statutes.

AMENDMENTS

Ten percent of revenue generated should be retained by Tax and Revenue Department's Motor Transportation Division and the AOC for administrative costs associated with collecting and processing the fee.

Establish a maintenance-of-effort requirement for the DPS Law Enforcement Program.

The fee is for recruiting for both State Police and Motor Transportation. Consideration could be given to directing the revenue to each entity since they are not in the same program at DPS.

POSSIBLE QUESTIONS

Should other law enforcement entities be included?

Should the funds be used for personal services/employee benefits generally at DPS rather than just recruiting and the academy?

Why would this revenue stream be directed at DPS rather than PED, HSD (Medicaid), DOH (DD programs) or higher education institutions to name just a few?

MW/mew