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FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/12
 LAST UPDATED 02/03/12 **HB** 158

SPONSOR Lewis

SHORT TITLE Habitual DWI Offender Sentencing **SB** _____

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			NFI	NFI	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB27, Companion to HB108

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)

New Mexico Sentencing Commission (NMSC)

SUMMARY

Synopsis of Bill

House Bill 158 would amend the habitual offender statute to require that a DWI felony conviction pursuant to Section 66-8-102 be considered a predicate felony offense that must be used in determining if the person is a habitual offender. Under the current habitual offender statute, persons convicted of more than one noncapital felony are considered habitual offenders whose basic sentences (for subsequent felony convictions) are increased by one year (for a second felony), four years (for a third felony) and eight years (for a fourth or subsequent felony). However, under the current law, DWI felony convictions (which are the fourth and any subsequent DWI convictions) pursuant to Section 66-8-102 are not considered felony convictions for purposes of determining habitual offender status/sentence enhancement.

FISCAL IMPLICATIONS

According to the New Mexico Corrections Department (NMCD) this bill will not impact it fiscally it during the relevant three year period. It may, however, impact the NMCD in subsequent years, as offenders convicted of two or more felony DWI offenses or two or more other felony offenses start being sentenced to the NMCD to serve longer prison sentences as habitual offenders. However, according to state statistics, DWI arrests continue to decline as well as DWI fatalities. If this trend continues, this bill may have a neutral fiscal impact.

The NMCD currently has approximately 68 inmates in its custody serving prison time on only a DWI felony conviction. NMCD currently has approximately 277 inmates in its prison custody serving prison time for a DWI felony conviction along with other convictions. In other words, a significant percentage of the NMCD's prison population consists of DWI Offenders. However, offenders already in the NMCD's custody or in the judiciary system will not be impacted by this bill.

At some point in the future, this bill will generally result in longer prison sentences for multiple DWI felony offenders and in longer prison sentences for those offenders with multiple felony (including DWI) convictions. At some point, these longer or enhanced prison sentences will likely increase the NMCD's prison population.

SIGNIFICANT ISSUES

The New Mexico Sentencing Commission (NMSC) reports that on June 30, 2011:

- 44 offenders committed to the custody of the NM Corrections Department had a fourth conviction for DWI as their highest charge.
- 64 offenders committed to the custody of the NM Corrections Department had a fifth conviction for DWI as their highest charge.
- 56 offenders committed to the custody of the NM Corrections Department had a sixth conviction for DWI as their highest charge.
- 74 offenders committed to the custody of the NM Corrections Department had a 7th or subsequent conviction for DWI as their highest charge.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with the sentencing in HB27 and Companion to HB108

ALTERNATIVES

None. Stiffer penalties for DWI appear to be needed to enhance public safety and to deter citizens from driving while under the influence of alcohol or drugs.

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