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FISCAL IMPACT REPORT

ORIGINAL DATE 2/27/2017

SPONSOR Lewis LAST UPDATED _____ HB 337

SHORT TITLE Increase DWI Penalties SB _____

ANALYST Rogers

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	Indeterminate, but will increase costs	Indeterminate, but will increase costs	Indeterminate, but will increase costs	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB 23 and HB 328.
 Relates to HB 300, HB 328, HB 271, SB 238 and SB 651.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

House Bill 337 amends Section 66-8-101 NMSA 1978 to increase the penalty for the crimes of homicide by vehicle while violating Section 66-8-113 NMSA 1978. HB 337 also increases the penalty for great bodily harm by vehicle while under the influence of intoxicating liquor and while under the influence of any drug or while violating Section 66-8-113 NMSA 1978 from a third degree felony to a second degree felony.

HB 337 also amends Section 66-8-102(G) NMSA 1978 to increase the term of imprisonment for the following DUI convictions:

- Fourth conviction: from 18 months to 30 months, 18 months of which shall not be suspended, deferred or taken under advisement.
- Fifth conviction: from 2 years to 3 years, 2 years of which shall not be suspended, deferred or taken under advisement.
- Sixth conviction: from 30 months to 42 months, 30 months of which shall not be suspended, deferred or taken under advisement.

- Seventh conviction: from 3 years to 4 years, 3 years of which shall not be suspended, deferred or taken under advisement.

FISCAL IMPLICATIONS

The AOC explains there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase. An increase in the number of jury trials and appeals can be anticipated, given the significant increase in the penalties related to homicide by vehicle and great bodily harm by vehicle. In general, prosecutions brought pursuant to laws with increased penalties can take up a considerable amount of judicial time and resources.

Enhanced sentences over time will increase the population of New Mexico's prisons and long-term costs to the general fund. An increased length of stay would increase the cost to house the offender in prison. In addition, sentencing enhancements could contribute to overall population growth as increased sentence lengths decrease releases relative to the rate of admissions, pushing the overall prison population higher. NMCD's general fund base budget has grown by an average \$9.5 million per year, or 3 percent, since FY14 as a result of growing prison population and inmate's needs.

SIGNIFICANT ISSUES

DOT explains DUI is unquestionably a serious issue in New Mexico. Every time a person commits DUI they increase the likelihood of killing or seriously injuring another person on the road. SB 337 increases the penalty for repeat DUI offenders and for offenders that kill or seriously injure another person, which is likely to deter some people from committing these offenses. Because people cannot commit DUI while incarcerated, keeping people in prison, and off the streets, might reduce the incidence of DUI.

The AOC states HB 337 increases the relevant homicide by vehicle penalty and the relevant great bodily harm by vehicle penalties from a third degree felony to a second degree felony. The basic sentence for a second degree felony is 9 years imprisonment as opposed to 3 years imprisonment for a third degree felony. Additionally, the court may impose a maximum fine of \$10,000 for a second degree felony, \$5 thousand for a third degree felon (*see* Section 31-18-15 NMSA 1978). As penalties become more severe, defendants may invoke their right to trial as well as seek to retain counsel. More trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.

PERFORMANCE IMPLICATIONS

The AOC states the courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percentage change in case filings by case type

One of NMDOT's performance measures is the reduction of alcohol related traffic crashes and fatalities. HB 337 may have an effect on decreasing an estimated 133 repeat offenders. The bill's impact would provide for longer jail sentences and would keep repeat offenders off the road longer, thus it may possibly have a positive impact on the NMDOT performance measure to reduce DUI related fatalities on New Mexico roads.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The AOC states the bill conflicts with HB 23 (amending Section 66-8-101(D) NMSA 1978 to increase the penalty for homicide by vehicle while driving recklessly pursuant to Section 66-8-113 NMSA 1978 from a third degree felony to a second degree felony) and HB 328 (also amending Section 66-8-101 to provide a first degree felony penalty for a person who commits homicide by vehicle while violating Section 66-8-113 NMSA 1978 and while driving a stolen vehicle, and a second degree felony penalty for great bodily harm by vehicle while violating Section 66-8-113 NMSA 1978 and while driving a stolen vehicle).

The bill also relates to HB 300, HB 328, HB 271, SB 238 and SB 651.

OTHER SUBSTANTIVE ISSUES

DOT points out that currently, a conviction under Section 66-8-101 (Death or GBH by Motor Vehicle) while under the influence of alcohol or drugs, does not count as a prior conviction for the purposes of the sentencing enhancement for DUI.

TR/sb/jle