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FISCAL IMPACT REPORT

SPONSOR: Jennings DATE TYPED: 3/7/01 HB _____
 SHORT TITLE: Ignition Interlock Device SB 735
 ANALYST: Rael

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
See Narrative				Recurring	General Fund/Federal

(Parenthesis () Indicate Revenue Decreases)

Duplicates: SB 447

Relates to: SB 305, SB 306, SB 344, SB 735, HB 457

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
 Bernalillo County Metropolitan Court
 Attorney General's Office (AGO)
 State Highway and Transportation Department (SHTD)
 Public Defender Department (PDD)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

The Ignition Interlock Device bill extends the period of probation for first-time DWI offenders from a maximum of one year to a maximum of two years. The bill also requires the mandatory installation of an ignition interlock device for the period of one year on the motor vehicle primarily driven by the offender. The offender is responsible for all costs relating to the installation and operation of the ignition interlock device.

Significant Issues

This bill could lead to a transfer of federal highway funds. Additionally, agencies report potentially significant administrative implications.

FISCAL IMPLICATIONS

SHTD reports that if the state laws relating to repeat DWI offenders do not meet federal regulations, the state will be subject to transfer of federal highway construction funds. Currently, New Mexico law is not in compliance with three out of four federal requirements for mandatory penalties applied to DWI repeat offenders. See Technical Issues below. Amount to be transferred is 1.5% of federal highway construction funds (approximately \$3 million dollars) to the Traffic Safety Program or Hazard Elimination Program in federal fiscal year 2002. The transfer increases to 3.0% (approximately \$6 million dollars) in federal fiscal year 2003 and each year thereafter.

See also Administrative Implications below.

ADMINISTRATIVE IMPLICATIONS

The SHTD currently certifies Ignition Interlock providers in New Mexico. There could be a need to certify additional providers to meet increased demand for the Ignition Interlock Device.

The Public Defender Department reports that increased penalties lead to a greater number of trials and higher costs for the criminal justice system.

The Bernalillo County Metropolitan Court reports that it is concerned whether the court is required to confirm and/or periodically monitor all of the first-time DWI offenders who were convicted in this Court to assure that they have these devices installed, "on the appropriate motor vehicles", for the required one-year period. If such confirmation/monitoring is required by the Court, then the Bill will have a tremendous impact on our Probation Division. The following three circumstances should be noted: 1) The Bernalillo County Metro Court hears approximately 1/3 of all the criminal cases annually filed in N. M.; 2) mandatory installation for every 1st time DWI offender in Bernalillo County would exponentially increase the incidence of such installations of these devices now occurring under present law; and, 3) the Probation Division would have to hire numerous more staff to perform these new, additional monitoring tasks.

TECHNICAL ISSUES

SHTD recommends the following amendments to meet Federal requirements:

1. Page 4, line 19 & 20, delete the words "seventy-two consecutive hours" and replace with "five consecutive days."
2. Page 6, creating a new section "J" to include mandatory immobilization, impoundment, or ignition interlock for subsequent offenders. SB 305 and HB 381 have the following language that meets federal requirements:

Upon any subsequent conviction pursuant to this section, an offender shall be required to have all motor vehicles owned by the offender impounded or immobilized for the period that the offender's driver's license is revoked or have an ignition interlock device installed and operated for a period of six months following reinstatement of his driver's license on all motor vehicles owned by the offender or available for the offender's personal use pursuant to rules adopted by the bureau. The offender shall pay all costs associated with immobilizing or impounding his motor vehicles or having an ignition interlock device installed on the appropriate motor vehicles.

OTHER SUBSTANTIVE ISSUES

TRD reports that the MVD may revoke a license for DWI after an administrative procedure under Section 66-8-112, but does not have the same power to require an ignition interlock device. This, along with a court's possible lack of information regarding previous administrative proceedings, may create conflicting messages to a defendant and inconsistencies in the law.

FAR/njw