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## FISCAL IMPACT REPORT

SPONSOR SJC DATE TYPED 2/17/2004 HB \_\_\_\_\_

SHORT TITLE Fees for Criminal Background Checks SB 562/SJCS

ANALYST Valenzuela

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			Indeterminate*	Recurring	Local Governments

(Parenthesis ( ) Indicate Expenditure Decreases)

\*Given that local law enforcement agencies are a primary customer of DPS for criminal background checks, these agencies will face budget increases.

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	\$1.7 million	\$1.7 million	Recurring	DPS Operating Fund

(Parenthesis ( ) Indicate Revenue Decreases)

\*\*Revenue estimates are based on 90,000 criminal background checks requested to be conducted every year.

### SOURCES OF INFORMATION

- “Department of Public Safety Budget Recommendation,” Report of the Legislative Finance Committee to the 46<sup>th</sup> Legislature, January 2004, pp. 646 – 658.
- Governor Bill Richardson’s Performance Review, *Moving New Mexico Forward: New Ways to Save Money and Improve Customer Service in State Government*, Volume II, August 2003, pp. 173 – 176.

### SUMMARY

#### Synopsis of Bill

The Senate Judiciary Committee Substitute for Senate Bill 562 would increase the DPS fee for

criminal background checks \$53.00/background check. Additionally, the bill would allow the department to use a portion of this funding, without seeking legislative appropriation, to defray the administrative costs of maintaining and updating law enforcement records.

Under the provisions of this bill, DPS is required to make an annual report to the Legislative Finance Committee at its October budget hearing on the status of maintaining and updating the law enforcement records and the need to continue the administrative fee. The bill carries an emergency clause.

### Significant Issues

The bill implements a recommendation made by Governor Richardson in the *Moving New Mexico Forward* policy document. The recommendation would increase the fee charged to local law enforcement agencies, the courts, and district attorney's, the primary users of this system<sup>1</sup>, for criminal background checks.

### **FISCAL IMPLICATIONS**

The bill proposes a 55.9 percent increase in the current fee for background checks. Given the number of background checks performed, the fee increase could generate \$1.7 million. The table below shows a breakout of the fee and beneficiaries of the revenue:

	Existing <u>Fee</u>	Proposed <u>Fee</u>
Goes to FBI	\$ 24.00	\$ 24.00
Goes to general fund	7.00	7.00
Goes to DPS	0.0	19.00
Goes to Contractor <sup>2</sup>	<u>3.00</u>	<u>3.00</u>
	\$ 34.00	\$ 53.00

### Continuing Appropriations

This bill provides for continuing appropriations to DPS. The LFC objects to including continuing appropriation language in the statutory provisions. Earmarking reduces the ability of the legislature to establish spending priorities.

### **OTHER SUBSTANTIVE ISSUES**

The legislation provides for an annual report to the LFC. Under performance-based budgeting, the LFC has urged state agencies to provide quarterly reporting of performance so that the Legislature could devise budget, policy and performance strategies, with the department, to address this problem. Currently, DPS does not provide performance measures, targets or reporting to the Legislature on this problem.

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<sup>1</sup> DPS reports in *Moving New Mexico Forward* that of the 180,000 background checks requested every year, half of them are generated from law enforcement or criminal justice agencies.

<sup>2</sup> This portion of the fee goes to a private company, which provides outside electronics access.

**RELATIONSHIP**

The bill is similar to House Bill 510. The LFC objects to legislation that provides direct and continuing appropriations to an agency, as this type of language would erode the constitutional authority of the legislature to appropriate state funding.

**MFV/lg:dm**