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## FISCAL IMPACT REPORT

SPONSOR SJC DATE TYPED 3/17/05 HB \_\_\_\_\_

SHORT TITLE Interlock Device Funds/DWI Reports SB CS/268,738 & 866

ANALYST Hadwiger

### APPROPRIATION (in \$000s)

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See text.	Recurring	Interlock Device Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	See text.		Recurring	Interlock Device Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Bernalillo County Metropolitan Court (BCMC)  
 Administrative Office of the District Attorneys (AODA)  
 Office of the Attorney General (AG)  
 Department of Finance and Administration (DFA)  
 Department of Health (DOH)

### SUMMARY

#### Synopsis of SJC Substitute for SB268, 738, 866

The Senate Judiciary Committee substitute for Senate Bills 268, 738, and 866 expands application of the interlock fees to children adjudicated as delinquents. Interlock fees would be paid by DWI offenders rather than ignition interlock providers. The fee would be changed from ten per-

cent of the amount charged to lease, install, service and remove each interlock device paid monthly under current statute to an amount determined by rule of the Department of Finance and Administration (DFA) of \$50.00 - \$100.00 for each year the person is required to operate the vehicle with the ignition interlock device. The fee would be collected by the ignition interlock device vendor, remitted to the DFA Local Government Division monthly. Where funds in the interlock device fund are currently used to pay to lease the interlock devices for indigent persons for the initial four months pursuant to a conviction, the substitute would use the funds to pay one-half of the cost of leasing the devices. The substitute would allow DFA to spend no more than five percent of the money in the fund for administration.

The substitute would also allow police officers to sign statements electronically that attest to the fact that a person refused a DWI test or that they failed a DWI test. The bill would also require uniform police reports and procedures for DWI arrests, reviewed periodically by the Motor Vehicle Division and Traffic Safety Bureau.

### Significant Issues

The Department of Health (DOH) noted that studies have shown ignition interlock devices are a positive deterrent to DWI. Research conducted during the 1990s by a number of different groups has consistently indicated reductions in recidivism of 40% to as high as 95% while interlocks are installed on vehicles. However, those same studies show that, when the interlocks are removed from offenders' vehicles, the recidivism rates return to pre-interlock level. On January 1, 2003, a new ignition interlock law went into effect in New Mexico that makes installation of an interlock mandatory for first and repeat Driving While Intoxicated (DWI) offenders. Interlocks "must be installed on all vehicles driven by the offender for at least one year, as a condition of probation" according to the law. First offenders were included when their offense is an "aggravated DWI", i.e., when an offender refused to take a BAC test at the time of arrest, drove with a BAC of 0.16 or higher, or caused bodily injury to someone while driving under the influence of alcohol. Ignition interlock installation is mandatory for all second or subsequent DWI offenders.

DOH also noted that the MVD is currently working on an electronic Uniform Traffic Citation. It will be used as part of TraCs Evaluation project. TraCs is a software application which allows law enforcement officers to record and retrieve traffic incident information in the field where the traffic violation occurs via an in-vehicle laptop computer. This software will be used to develop a New Mexico approved electronic Uniform Traffic Citation, a DWI Citation and associated DWI forms, an Incident and Offense Report, and a Crash Report. Passage of the substitute would facilitate this effort.

DFA indicated a preference for this version of the bill over previous versions. DFA preferred the fee structure in this bill over that in existing statute, because the set fee would be more predictable and easier to collect from vendors. DFA noted that the new fee may render the need for transfers from the Local DWI Grant Fund unnecessary at some time in the future, depending on actual revenues, as well as impacts from adding juveniles to the beneficiaries.

The Administrative Office of the Courts provided the following comments on the substitute:

- 1) The SJC substitute raises the fee to be collected by a vendor from both the original SB 268 and the SPAC substitute for SB 268.
- 2) The original SB 738 required a standard arrest report to be developed and used. The SJC substitute requires the development, periodic review and update of standard ar-

- rest reports. Will having multiple arrest reports defeat the desire to develop a standard report or is there an administrative need for multiple standard arrest reports?
- 3) There is a chance that challenges to the validity of an electronic statement may arise and take up court time and resources.

The Office of the Attorney General provided the following comments on the substitute:

- 1) The collection of the ignition interlock fee by the vendor should be imposed and contained in the judgment and sentence to provide for enforceability by the court or the probation department. A vendor may have difficulties in collecting a fee without a court order.
- 2) No funding is provided for the technology for the electronic transmission of the uniform police reports or the development of the uniform report by the various state agencies.
- 3) No time line is set for the development of the uniform report or the use of the uniform report by law enforcement agencies. The lack of a time frame coupled by the discretionary nature of the electronic transmission may detract from the policy and goals.
- 4) Suggestion: Why not just state an ignition interlock fee instead of the range from \$50 to \$100?

## **FISCAL IMPLICATIONS**

Based on 2,500 persons having ignition interlock devices installed, this bill would generate \$125,000 - \$250,000 per year for the interlock device fund. The current fees generate about \$100,000 per year; however, this should not be interpreted as the total revenues annually, because vendors pay themselves for services rendered to individuals who are adjudicated as indigent under existing statute and remit only the balance to DFA. The LFC did not receive an estimate of the number of additional juvenile offenders that would be added by the substitute.

On a per capita basis, DOH and DFA indicated that the cost of putting an ignition interlock on a car averages \$60 for installation, and \$70 - \$80 a month in Santa Fe. The costs may range within other counties. For an offender to have an ignition interlock for one year, would cost about \$1,000. Currently the offender must pay 10% of total fees to the interlock device fund. An offender who pays \$1,000 for ignition interlock would pay \$100 to the Ignition Interlock Fund. The substitute would provide flexibility for DFA to charge fees that would correspond to current per capital levels. It appears that the fees proposed in the substitute would hold the interlock device fund harmless.

The interlock device fund ended FY04 with a fund balance of about \$346,000. As this program develops, it will be useful to review the changes in the fund balance to consider alternative financing strategies.

## **ADMINISTRATIVE IMPLICATIONS**

DFA indicated that the substitute may significantly reduce the administrative burden to vendors and DFA, because collection of a one-time fee is easier to administer than 10 percent of monthly charges. The proposed reimbursement would also be easier to administer, according to DFA.

**DH/lg**