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FISCAL IMPACT REPORT

ORIGINAL DATE 2/14/07
 SPONSOR Varela LAST UPDATED 3/01/07 HB 1103
 SHORT TITLE REPEAL DWI PROGRAM FUND SB _____
 ANALYST Propst

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Non-Rec | Fund Affected |
|---------------|---------|-------------------------|---|
| FY07 | FY08 | | |
| | \$600.0 | Non-Recurring | Other State Funds (DWI Program Fund) |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 1103 repeals section 6-4-8 NMSA 1978, ending the "DWI program fund" which was created to fund State agency DWI prevention efforts. HB 1103 also appropriates the fund balance to DFA for two statewide purposes: 1) to purchase equipment and fund undercover operations for DWI law enforcement; and, 2) to study DWI-drug court cost-effectiveness and recidivism rates and to make recommendations for Drug Court improvement.

FISCAL IMPLICATIONS

The \$600.0 DWI program fund balance will be allocated to DFA to expend on DWI purposes in FY08 and FY09. Any balance will revert to the general fund at the end of 2009.

SIGNIFICANT ISSUES

DFA reports that it supports this bill. The DWI program fund is a non-reverting fund. With the exception of 1993, this section of law has never been used by the Legislature to fund State agencies or programs. The Legislature has not appropriated additional funds to this fund. Nor has

it appropriated the non-reverting fund balance amount from 1993 for expenditure on DWI.

The Administrative Office of the Courts notes that the “DWI program fund” was created by statute in 1993 as a non-reverting source of funds for various agencies’ DWI programs and initiatives. DFA reports that the fund has a balance of approximately \$600.0, and has not been in use for much of its history. HB 1103 does not indicate how much of the fund balance will be directed towards each of the two stated purposes. This analysis will focus just on the second purpose, evaluations of the state’s DWI-drug court programs, as the other purpose does not directly affect the judiciary.

There are five DWI-drug court programs in New Mexico, four at the magistrate court level in Dona Ana, Eddy, McKinley, and Valencia counties; and one at Bernalillo County Metropolitan Court. The programs vary widely in age and size. The oldest (Dona Ana Magistrate) was started in 1994, while the youngest (Valencia Magistrate) is just getting started. The program at Bernalillo County Metropolitan Court is easily the largest program, with upwards of 350 concurrent participants, while the others work with between 30 and 70 participants at a time. They also range from highly urban (Metro Court in Albuquerque) with significant court resources to very rural (Eddy Magistrate in Carlsbad) with limited court resources.

Most drug court programs, nationwide and in New Mexico, got their start through federal grant funds. Such grants generally require a program evaluation be performed using some of the grant funds. The older DWI-drug court programs (Dona Ana Magistrate and Metro Court) were evaluated in the late 1990s using grant funds, but federal money for drug courts has become extremely limited in the last several years, and our newer drug courts have had to start up without federal funds. This means that several have not had a formal program evaluation performed, though the McKinley County Magistrate program has just completed a process and outcome evaluation using state funds.

The judiciary has sought evaluation funds unsuccessfully from the legislature several times in the last few legislative sessions, and would welcome the opportunity provided through this bill to develop and conduct evaluations appropriate to several (if not all, depending on the amount of the funds appropriated for such evaluations) of the state’s DWI-drug court programs. Newer programs would benefit from process evaluations that would help ensure they are operating consistently with national and state standards, as well as with their own program policies and procedures. The rest would benefit from outcome evaluations that could suggest ways to improve the already significant services they provide in support of public safety in their community. And the state would benefit from a better understanding of the effectiveness and cost savings of these programs, to guide and possibly increase its future investment.

ADMINISTRATIVE IMPLICATIONS

HB 1103 appropriates the remaining balance of the “DWI program fund” to the department of finance and administration. The Administrative Office of the Courts (AOC), in conjunction with the Supreme Court’s Drug Court Advisory Committee, oversees the state’s 30 drug court programs and has been involved with several past program evaluations. It would be highly beneficial to the effectiveness and comprehensiveness of any DWI-drug court program evaluations to have the AOC directly involved in their design and implementation. The judiciary has requested that the evaluation funds appropriated by this bill go directly to the AOC, as it may be in the best position to work with the contracted evaluation team(s) in developing and

executing evaluations specific to the different programs (see Significant Issues above), while maintaining consistency with national research and statewide requirements. If that is not possible, the Local Government Division of DFA is the entity within DFA with the greatest experience with DWI programs and evaluation criteria, and would also be effective in administering the evaluation funds. In any event, the judiciary believes it is very important that the AOC be directly involved in all aspects of such program evaluations (from design, to RFP, to scheduling, administration, and execution) regardless of what entity receives the evaluation funds.

WEP/mt