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FISCAL IMPACT REPORT

ORIGINAL DATE 01/19/12

SPONSOR Rehm LAST UPDATED _____ HB 27

SHORT TITLE Unlawful Drug Amounts for Driving SB _____

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$780.0	\$780.0	\$1,560.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General’s Office (AGO)
 New Mexico Corrections Department (NMCD)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 27 adds driving while under the influence of a controlled substance or metabolite within three hours of driving a vehicle to the list of compounds that are considered to impair driving. The bill further identifies the various substances considered controlled substances or metabolite and the concentration for each and removes the age requirement of under 21 year. The bill further requires any person convicted of driving under the influence of these substances to obtain an ignition interlock license and have installed an ignition interlock device in all motor vehicles driven by the offender. The bill also substitutes “offender” for conviction and removes the alcohol concentration and substitutes “controlled substance or metabolite and refers to the driving while intoxicated statute Section 66-8-102 NMSA 1978. The process to restore a driver’s license five years after the date of the fourth conviction remains the same as it for driving under the influence of alcohol. The requirements in the bill are effective July 1, 2012.

FISCAL IMPLICATIONS

According to the Attorney General’s office, passage of the bill may have a fiscal impact on the state’s scientific labs requiring them to conduct more analyses.

The Corrections Department reports a likely significant increase in the number of additional DWI convictions, which would increase the department's costs associated with increased inmate populations and probation and parole caseloads. At a rate of 26 new inmates per year, the additional cost to NMCD is \$780 thousand. The increase number of parolees may generate a small amount of revenue from probation and parole supervision fees. The supervision fees are not used to pay for care and support of inmates while incarcerated.

SIGNIFICANT ISSUES

Increases to criminal convictions through new legislation will eventually cause the NMCD rated capacity to be reached for its prison population. At that time the state has three options: 1) House inmates out of state, 2) release prisoners early or 3) expand existing prison space or build new prisons.

According to the Attorney General's Office, metabolites affect each person differently and assigning a per se amount to certain drugs may be difficult.

PERFORMANCE IMPLICATIONS

The Administrative Office of the Courts reports a potential impact to the following two performance measures: Cases disposed as a percent of cases filed and Percent change in case filings by case type.

ADMINISTRATIVE IMPLICATIONS

According to the NMCD, it is operating with an 18.77 percent vacancy rate for correctional officers and a 15.21 percent vacancy rate for probation and parole officers. An increase in the prison and probation and parole population based on new legislation would increase workloads for both prison and probation and parole staff.

Detection of metabolites by law enforcement officer may require more drug detection training and additional funding may be needed to train those officers.

OTHER SUBSTANTIVE ISSUES

According to the Attorney General's Office it may be difficult to prove the ingestion of a controlled substance or its metabolites.

ALTERNATIVES

Consider legislation that focuses on treatment rather than incarceration for DWI offenders, which may help reduce or maintain the prison population while increasing the probation and parole caseloads.

AS/amm