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FISCAL IMPACT REPORT

ORIGINAL DATE 01/18/13

SPONSOR Lewis LAST UPDATED _____ HB 32

SHORT TITLE Increase DWI Penalties SB _____

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)*

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	\$480.5	\$2,619.1	\$3,563.8	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

*The Public Defender Department was the only agency to estimate the financial impact of this legislation.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOCA)
 New Mexico Sentencing Commission (NMSC)
 Public Defender Department (PDD)
 New Mexico Corrections Department (NMCD)

Responses Not Received From

Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of Bill

House Bill 32 amends Section 66-8-102 NMSA 1978 to increase the penalties for fourth and higher convictions of DWI, as follows:

<u>Conviction</u>	<u>Current min</u>	<u>Current Max</u>	<u>Bill min</u>	<u>Bill max</u>
4 th offense	6 months	18 months	18 months	36 months
5 th offense	1 year	2 years	2 years	3 years
6 th offense	18 months	30 months	30 months	42 months
7 th offense	2 years	3 years	3 years	4 years
8+ offense	same as a 7 th currently		10 years	12 years

FISCAL IMPLICATIONS

Although the Corrections Department has maintained that the legislation will have minimal to no fiscal impact if passed, this legislation may result in annual costs of \$2.6 million per year. This estimate is based on an assumption that 150 individuals will be convicted of offenses covered by this legislation and that the averages stay in a correctional institution will be 180 days, or approximately 6 months. The cost per day assumed is \$96.98. This cost is based on the average cost per inmate per day of the state correctional facilities (\$108.05 in FY11) and private facilities (\$85.47). The additional cost equates to approximately 1 percent of the total budget of the New Mexico Department of Corrections.

The Public Defender Department has estimated that this legislation will likely lead to increased attorney caseloads as well as the possibility that the Public Defender Department will have to hire additional attorneys to process the increased cases. The department estimates the increased caseload could lead to a need for an additional 6.5 attorney FTE and \$450 thousand to fund the positions.

SIGNIFICANT ISSUES

According to the New Mexico Sentencing Commission, as of June 30, 2012, 292 offenders committed to the custody of the NM Corrections Department (NMCD) had a felony DWI conviction as their highest charge. That total includes new admissions for a felony DWI conviction and offenders returned to prison whose original conviction was for a DWI offense.

The Administrative Office of the Courts has stated that as penalties become more severe, defendants may invoke their right to trial and their right to trial by jury. More trials, particularly jury trials, will require additional judge time, courtroom staff time, courtroom availability and jury fees.

Offenders already in the NMCD's custody will not be impacted by the proposed enhanced sentences proposed in this bill. At some point in the future, enactment of this bill will result in longer prison sentences for felony DWI offenders. Increased length of stay may impact the state prison population.

OTHER SUBSTANTIVE ISSUES

The New Mexico Sentencing Commission reports that literature on the subject of DWI recognizes the effectiveness of a multi-pronged approach, including media campaigns, sobriety checkpoints, treatment, DWI courts, ignition interlocks and swift, certain sanctions.

The fiscal analysis does not account for societal benefits including the possibility of fewer DWI-related auto accidents which may accompany passage of this legislation.