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FISCAL IMPACT REPORT

ORIGINAL DATE 2/8/2018

SPONSOR Gentry LAST UPDATED _____ HB 302

SHORT TITLE Auto Theft Prevention Act SB _____

ANALYST Edwards

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|---------|------------------------------|------------------|
| FY18 | FY19 | | |
| | \$150.0 | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|-----------|-----------|------------------------------|-------------------------------------|
| FY18 | FY19 | FY20 | | |
| | (\$150.0) | (\$150.0) | Recurring | General Fund |
| | \$2,260.0 | \$2,260.0 | Recurring | Automobile Theft Prevention Fund |

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY18 | FY19 | FY20 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|---------|---------|----------------------|------------------------------|------------------|
| Total | NFI | Minimal | Minimal | Minimal | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

Relates to *HB 173.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Superintendent of Insurance (OSI)

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 302 creates the Automobile Theft Prevention Act. Included in the Act is the new Automobile Theft Prevention Commission (commission) administratively attached to the Department of Public Safety (DPS). Section 4 of the bill outlines the powers and duties of the commission, including the ability to make grants, employ an executive director, and the issuance of an annual report to the Legislature and Governor.

The bill requires the Superintendent of Insurance to report to the commission annually the statewide average cost for the previous fiscal year of liability insurance coverage required under the Mandatory Financial Responsibility Act (66-5-201 through 66-5-239 NMSA 1978).

The bill authorizes the commission to award grants for projects or programs related to stymieing auto theft in the state.

The bill creates the nonreverting Automobile Theft Prevention Fund in the state treasury, consisting of fees collected in accordance with the act. Money in the fund shall be used to carry out the purposes of the act, including commission-approved grants to law enforcement agencies for programs related to automobile theft education, prevention, and prosecution.

The bill creates a fee payable to the Office of the Superintendent of Insurance (OSI) of \$0.50 cents for each automobile that is insured under a motor vehicle liability insurance policy issued by an authorized insurer. The fees shall be deposited into the Automobile Theft Prevention Fund. The bill establishes penalties for failure to pay fees.

The bill makes requirements about the sharing, disclosure, and confidentiality of information between authorized insurers and the commission.

Section 14 provides the commission will sunset and the Act repealed on July 1, 2022.

At a public hearing, the Legislative Finance Committee shall determine whether the statewide average cost of liability insurance coverage required under the Mandatory Financial Responsibility Act has decreased. If the statewide average cost of liability insurance coverage required under the Mandatory Financial Responsibility Act has decreased, the Legislative Finance Committee shall submit legislation for continuation of the commission as an amendment of the delayed repeal section covering the creation of the commission and its related statutes.

The bill amends 59A-6-1 and 59A-6-5 NMSA 1978, authorizing OSI to collect a \$0.50 cent semiannual fee for each automobile that is insured under a motor vehicle liability insurance policy issued by an authorized insurer to be deposited into the Automobile Theft Prevention Fund.

The bill makes an appropriation of \$150 thousand in FY19, FY20, FY21, and FY22 to the Automobile Theft Prevention Fund, a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of the fiscal year shall **not** revert to the general fund.

The appropriation allows the commission to carry out the provisions of the Act.

FISCAL IMPLICATIONS

The appropriation of \$150 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of the fiscal year shall ***not*** revert to the general fund.

Continuing Appropriations language

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

HB 302 adds a new fee to be collected on a semiannual basis by OSI to be deposited in to the Automobile Theft Prevention Fund. In response to HB 158, TRD estimated there were 2.26 million active registration plates meeting the criteria of that bill. A \$0.50 cent semiannual fee on those registrations could generate \$2.3 million in revenue to the fund per year.

OSI states the appointed commission members would be entitled to per diem and mileage in accordance with the act. Neither OSI nor DPS stated the bill would have any impact on their operating budgets.

SIGNIFICANT ISSUES

DPS states New Mexico ranked 1st in property crime in the United States in 2016, and saw motor vehicle theft rise by 36 percent to 564.3 thefts per 100 thousand citizens. Albuquerque had the highest rate per-capita of auto thefts in the country in 2016 (National Insurance Crime Bureau).

OSI explains:

The stated definition of a law enforcement agency is an agency of the state or political subdivision of the state. This would exclude all major municipalities, counties and other entities not recognized by the proposed definition from applying for grants or funding from the new agency.

Additionally, this bill provides a penalty that mandates that the Superintendent to suspend an authorized insurer's certificate of authority to conduct business in the State of New Mexico without any due process and imposes a penalty not to exceed 120 percent of the fee due or both. It also imposes a non-refundable fee in one section of the bill and then provides for a statutory refund in another section of erroneously paid fees.

The bill includes an appointed board of noncommissioned people to receive information and disclose possible criminal activity or complaints to law enforcement agencies. This could potentially compromise the integrity of any criminal investigation and prosecution.

This new statutory mandate leaves both the Department of Public Safety, the State Treasurer's Office, and the Office of Superintendent of Insurance with an unfunded

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mandate and no additional employees to carry out these additional proposed requirements. The Sunset clause terminates the provisions of the new material on July 1, 2021, however, continues to allow the commission to operate without statutory authority until July, 1, 2022.

Relates to HB 173 which creates the Automobile Theft Prevention Authority within the office of the Superintendent of Insurance.

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