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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/09
 LAST UPDATED 3/01/09 **HB** _____

SPONSOR Feldman

SHORT TITLE Distribute Traffic Fines To Brain Injury Fund **SB** 101/aSPAC

ANALYST Aubel

REVENUE (dollars in thousands)*

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	(\$204.7)*	(\$204.7)*	Recurring	Metropolitan Court Guarantee Fund DWI Drug Courts
	\$204.7*	\$204.7*	Recurring	Brain Injury Services Fund

(Parenthesis () Indicate Revenue Decreases)

*Fiscal impact is based on a revised analysis from AOC, which produces a substantially higher projection of revenues. Approximate amount is based on first five months of the program initiated by Laws 2008, Chapter 91.

Conflicts with S519
 Relates to HB758

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 Administrative Office of the Courts (AOC)
 Department of Public Safety (DPS)
 New Mexico Finance Authority (NMFA)
 Developmental Disabilities Planning Council (DDPC)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee Amendment for Senate Bill 101 broadens application of the bill from municipalities with a population of 200,000 or more to *counties* with 100,000 or more. According to AOC, this amendment effectively expands the reach of the legislation from Albuquerque to include red-light camera programs in the counties of Santa Fe, Dona Ana, and McKinley, among other counties that have a camera program or have taken significant steps toward implementing a program.

FISCAL IMPACT

The first five months of Albuquerque’s red light program, pursuant to Laws 2008 Chapter 91, produced an estimated annual distribution of \$6.9 million. Reducing this amount by the annualized vendor costs of \$4 million produces an estimated annual transfer to AOC of \$2.9 million. Seven percent of this amount is \$204.7 thousand, which would go to the brain injury fund under this bill.

The additional proceeds from expanding the areas under coverage are indeterminate.

Synopsis of Original Bill

Senate Bill 101 amends Section 3-18-17 NMSA 1978 to distribute 7 percent of the net total amount of moving violation fines, fees and costs (Albuquerque red light camera program) to be distributed to the Brain Injury Services Fund.

FISCAL IMPLICATIONS

The fiscal impact of the bill will shift approximately \$120 thousand annually from the Metropolitan Court Guarantee Fund (MCGF) to the Brain Injury Services Fund (BISF). This estimate is based on the first six months of proceeds sent to the Administrative Office of the Courts (AOC) from the Albuquerque red light camera program per Laws 2008, Chapter 91. Due to the short duration of the revenue stream thus far, the revenue projections are uncertain and are subject to Albuquerque continuing the camera program. The chart below indicates how the proceeds from the first half of FY09 would have been allocated under SB 101:

Actual Allocation		
First half of FY09	10% DWI Drug Courts	90% MCGF
\$883,000	\$88,300	\$794,700
Potential Allocation Under SB 101		
7% BISF	10% DWI Drug Courts	90% MCGF
\$61,810	\$82,119	\$739,071

The estimated annual funding for BISF under SB 101 is based on this first six months amount of \$61,810 annualized and rounded to \$120 thousand.

SIGNIFICANT ISSUES

Laws 2008, Chapter 91 (Senate Bill 442) amended the nuisance abatement provisions set forth in Section 3-18-17 NMSA 1978 by providing that, with respect to any municipality (including a home rule municipality that has adopted a charter pursuant to Article 10, Section 6 of the New Mexico Constitution), penalties or fines and costs or fees imposed by an ordinance for failure to obey a traffic sign or signal (including a red light violation) or for a speeding offense or violation shall be limited as follows:

- the total amount of the assessed fines, fees and costs shall not exceed \$75.00;
- the total amount of the assessed fines, fees and costs shall be distributed to the AOC, of which:
 - 10 percent shall be credited to driving while intoxicated (DWI) drug court programs;

- 90 percent shall be transferred to the New Mexico Finance Authority for deposit into the Metropolitan Court Bond Guarantee Fund; and
- Beginning with fiscal year 2009, the municipality shall cause an audit of the program to be conducted by the state auditor or an independent auditor.

According to NMFA, the primary intent of SB 442 was to provide a revenue source to eliminate some, if not all, \$950 thousand special appropriations that the AOC had been receiving from the Legislature to meet debt coverage on the Metropolitan Court bonds issued by NMFA on behalf of OAC. The pledged revenues from the AOC were insufficient to meet the debt service requirements of a 1.22 ratio as outlined in the bond covenants. By dedicating 90 percent of the net amount assessed in penalties, fines, fees and costs of the Albuquerque “red light camera program” to the Metropolitan Court Bond Guarantee Fund, this ratio could be achieved without additional appropriations.

SB 101 would change the allocations of this revenue source, as follows:

- 93 percent of the net total assessment shall be the total amount of the assessed fines, fees and costs shall be distributed to the AOC for allocation as follows:
 - 10 percent shall be credited to DWI drug court program; and
 - The remaining 90 percent shall be transferred to the NMFA for deposit into the Metropolitan Court Bond Guarantee Fund; and
- 7 percent of the net total assessment shall be distributed to the Brain Injury Services Fund.

Any funds deposited into the Metropolitan Court Bond Guarantee Fund support bond payments and help ensure that NMFA will be able to make all future payments until the bonds are retired. The primary policy issue is whether diverting 7 percent to the Brain Injury Services Fund will compromise the debt service coverage on the Metropolitan Court bonds and require AOC to seek funding through special appropriations. Using the proceeds distributed to AOC from June 30, 2008, the effective date of SB 442, both AOC and NMFA indicate that the remaining 83.7 percent (90 percent of 93 percent of the total) would still be sufficient to meet bonding requirements. However, both agencies caution that the data is based on only six months of revenues and it is not guaranteed because it depends on Albuquerque continuing its red light camera program.

DDPC reports that the revenue being distributed to the Brain Injury Services Fund would support demand for short term services by people with traumatic brain injury. The Council maintains that revenues are declining in the face of increased need for these services, noting that according to the Aging and Long Term Services Department. Revenues fell from \$1.5 million in FY02 to \$1.3 million by FY06. In FY06, DDPC reports that 515 individuals were served and in FY07, revenue decreased to \$1.2 million, and a similar number of people were served. DDPC states that the revenue generated for FY08 isn't available yet from Aging and Long Term Services Department; however, the number of individuals served has increased to 822 people. The Council notes that soldiers returning from Afghanistan and Iraq, 20 percent of whom have experience brain trauma, are a contributing factor to this increase.

According to DDPC, the Brain Injury Service Fund is often the initial contact point for people with traumatic brain injury.

ADMINISTRATIVE IMPLICATIONS

AOC notes there may be a minimal administrative impact on the City of Albuquerque by creating another place where nuisance proceeds must be deposited in a specified amount, and indirectly on the AOC as a result of an increased fiscal management responsibilities for tracking and depositing the correct allocation of proceeds.

NUISANCE ORDINANCE VIOLATIONS & FEES
MOTOR VEHICLE CITATIONS & AUTO ISSUANCE

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Data indicates that the revenue for the Brain Injury Service Fund is steadily declining while numbers of people needing services are increasing. Less people will be served with less money.

MA/svb:mt