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## FISCAL IMPACT REPORT

SPONSOR: Taylor, T. C.                      DATE TYPED: 03/12/01    HB 624/HGUACS/aHJC  
 SHORT TITLE: Increase Local Government Corrections Fees    SB \_\_\_\_\_  
 ANALYST: Padilla

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	\$2.2 million	\$2.2 million	Recurring	Local Government Corrections Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to/Conflicts with HB 767 and SB757

### SOURCES OF INFORMATION

LFC Files  
 Administrative Office of the Courts (AOC)  
 Taxation and Revenue Department (TRD)  
 Children, Youth and Families Department  
 Attorney General

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment relates to House Bill 221. Like House Bill 221, the amendment amends and repeals certain sections of the law to allow collection of the municipal court automation fee in perpetuity. The amendment repeals the 1994 law that contained a sunset provision for the collection of the fee. The automation fee is one of three fees currently collected by municipal courts, the other two being the corrections fee (which HB 624 increases to \$20) and the judicial education fee of one dollar.

#### Synopsis of HGUAC Substitute

The committee substitute amends the following items from the original bill:

1. It increases the corrections fee added to court costs for misdemeanor convictions in *magistrate* court from \$10 to \$20. (The original bill increased the corrections fee only for mailed-in misdemeanor penalty assessments.)

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2. It increases the corrections fee added to court costs for convictions in *municipal* court from \$10 to \$20.

These increased fees do not apply to citations and convictions in Albuquerque and Bernalillo county.

The two changes described above address the second “substantive issue” discussed below. Mailed-in penalty assessments and convictions are treated equitably. By increasing the corrections fee for cases that go to court and result in conviction as well as mailed-in penalty assessments, there is no issue of providing a financial incentive for people to go to court.

AOC calculates that increasing the corrections fee by \$10 for magistrate court convictions, municipal court convictions and for penalty assessment misdemeanors could generate approximately \$2.2 million in additional revenue a year.

### Synopsis of Original Bill

House Bill 624 increases the corrections fee that is added to penalty assessment misdemeanors from \$10 to \$20 for all non-Bernalillo county citations. The increased fee goes into the Local Government Corrections Fund, which is administered by AOC. The bill expands the uses of the Local Government Corrections Fund to include alternatives to incarceration and to satisfy federal match requirements for funds relating to juvenile detention facilities.

### Significant Issues

The increase provided for by this bill would increase the total penalty assessment add-on amount to \$49 for citations issued outside Bernalillo county. This is in addition to the underlying general fund penalty amount that ranges from \$10 to \$500 and averages about \$35. Violators mail in penalty assessments to TRD’s Motor Vehicle Division unless they request a court appearance.

The increased corrections fee does not apply to citations from Albuquerque and Bernalillo county. AOC points out that this means people who are ticketed in Bernalillo County or who are convicted in Bernalillo County Metropolitan Court will be charged \$6 less in fees for each charge or citation.

Over eighty percent of the corrections fee is derived from traffic cases.

## **FISCAL IMPLICATIONS**

TRD reports that about 160,000 penalty assessments were paid in FY 2000 from locations outside Albuquerque and Bernalillo county. TRD believes that increasing the fee for non-Bernalillo penalty assessment misdemeanors by \$10 would increase revenue to the Local Government Corrections Fund by approximately \$1.6 million. Based on actual revenue from the first six months of FY 2001, AOC estimates a lower figure of \$1.24 million.

TRD notes, however, that by increasing the penalty assessment by \$10, this bill could have the effect of encouraging people to contest their cases in court rather than mail in the penalty assessment. This would cause some recurring losses to the general fund, because a percentage of violations are dismissed by the courts.

## **ADMINISTRATIVE IMPLICATIONS**

This bill would have minor administrative implications on AOC and TRD, as systems would have to be adapted to reflect the higher corrections fee.

### **TECHNICAL ISSUES**

The Attorney General's office notes that the new material concerning alternatives to incarceration (page 2, line 9 and page 3, lines 16-17) does not specify whether it applies to county or municipal prisoners or juveniles in a detention facility, or all of them. Additional language clarifying which group or groups are to benefit might make the intent of the bill clearer.

TRD notes that any increase in add-on penalty assessments is usually accompanied by a similar increase in court fees for motor vehicle violations in metropolitan and magistrate courts.

### **OTHER SUBSTANTIVE ISSUES**

AOC reports that the Chief Judges' Council opposes any new fees or increases in existing fees that do not support the operation of the courts.

As noted above, this bill does not increase the corrections fees for cases that go to magistrate court. Therefore, people who choose the penalty assessment option will be charged \$20 for the corrections fee while people who are convicted in court will be charged \$10. AOC and TRD believe this difference may cause more people to choose to contest their cases in court, which would result in a recurring loss to the general fund, since some percentage of the cases would be dismissed by the courts.

### **CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP**

This bill conflicts with SB757 and HB767 which propose to create a "civil legal services fund," supported by the imposition of two court fees. The new fee schedules in SB757 and HB767 conflict with the new fee schedule in HB 624.

### **POSSIBLE QUESTIONS**

1. For what purposes is the Local Government Corrections Fund currently used?
2. Do counties need additional funding for alternatives to incarceration and are there programs available that counties can avail themselves of with the additional funding that this bill will provide?

LP/jsp/njw