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FISCAL IMPACT REPORT

SPONSOR: HAFC DATE TYPED: 03/15/03 HB 258, 228 & 334/HAFCS/aHJC

SHORT TITLE: Increase Judicial Education Fee SB _____

ANALYST: Hayes

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	(\$200.0)		(\$100.0)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$400.0	\$400.0	Recurring	Judicial Education Fund
	Unknown	Unknown	Recurring	Local Govt. Corrections Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Responses Received From

Administrative Office of the Courts (AOC)
Bernalillo County Metropolitan Court (BCMC)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment allows for a sentence that *combines* both substance abuse treatment and jail time, rather than requiring one or the other.

Synopsis of Original Bill

The House Appropriations and Finance Committee Substitute for House Bills 258, 228 and 334 combines legislative requests to increase certain court fees and the use of those court fees. A summary of the changes are outlined below:

1. *Section 33-3-25 NMSA 1978* is amended so that all balances in the Local Government Corrections Fund, appropriated to and administered by the AOC, may also be used for paying the construction, maintenance and operation of a county detention center, or may also be used for alternatives to incarceration.
2. In *Section 35-6-1 NMSA 1978*, fees are amended so that magistrate judges, including metropolitan court judges, must assess and collect and shall not waive, defer or suspend the following costs:

Corrections Fee

- a. to be assessed upon conviction in a county with a metropolitan court \$10.00
- b. to be assessed upon conviction in a county without a metropolitan court \$20.00

Judicial Education Fee to be assessed upon conviction~~[\$1.00]~~..... \$ 2.00

3. *Section 35-14-11.B NMSA 1978* reads: “Every municipality shall enact an ordinance requiring assessment of corrections fees, judicial education fees and court automation fees to be collected as court costs....” Fee assessments are amended in the following manner in this section:

Corrections Fee to be assessed at~~[\$10.00]~~..... \$20.00

Judicial Education Fee to be assessed at~~[\$ 1.00]~~..... \$ 2.00

These fees are to be collected upon conviction from persons convicted of violating any ordinance relating to the operation of a motor vehicle or any ordinance that may be enforced by the imposition of a term of imprisonment.

The term “convicted” as defined in sub-section B is deleted and redefined in sub-section H to mean that “the defendant has been found guilty of a criminal charge by a municipal judge, either after trial, a plea of guilty or a plea of nolo contendere.”

4. *Section 35-14-11.D NMSA 1978* regarding use of the fees collected is amended so that the fees may be expended for:
 - Providing inpatient treatment or other substance abuse programs as an alternative to jail sentencing.
 - Defraying the cost of transporting prisoners to jails or juveniles to juvenile detention facilities.
 - Providing electronic monitoring systems.
5. *Section 35-14-11.E NMSA 1978* authorizes a municipality to credit the interest collected from fees deposited in the special fund to the municipality’s general fund.

The effective date of the provisions of this bill is July 1, 2003.

Significant Issues

1. According to the Administrative Offices of the Courts, this legislation provides municipalities with resources to meet court ordered sentencing. It also provides resources for judges to impose alternatives to incarceration, including electronic monitoring systems, which ultimately reduces the burden on corrections facilities.
2. The revenue generated from this increased fee would be used to enhance the operation of the Judicial Education Center at the Institute of Public Law. The Judicial Education Center (JEC) receives a general fund appropriation annually, plus the fees credited to the Judicial Education Fund, in order to provide training, publications, CLE and orientation of judges and court staff. JEC also provides money for out-of-state travel for judges to attend seminars and conferences from these funds.
3. Each court, from the Supreme Court, Court of Appeals, district courts, metropolitan and magistrate courts, also request funding for training and out-of-state travel annually. The LFC's FY04 budget recommendations contain approximately \$100.0 for training and out-of-state travel.

FISCAL IMPLICATIONS

- The estimated revenue to be generated is \$400.0, which is recurring revenue to the Judicial Education Fund. Currently, JEC receives approximately \$500.0 from the fund.
- If the fee increase is approved, AOC states that the additional \$200.0 revenue to the Judicial Education Fund from the \$1 increase would enable the JEC to forego \$200.0 of its proposed general fund appropriation for FY04 (recommended at \$283.6), thereby resulting in a net addition to the general fund of \$200.0. JEC still requests the remaining portion of its proposed general fund appropriation of \$83.6.
- Combined, the increased revenue stream (\$900.0) and the adjusted general fund appropriation (\$83.6) would be approximately \$1 million for the Judicial Education Center.
- It is suggested that travel and training funding be reduced in individual court budgets since this funding is duplicated for them at the JEC.

Continuing Appropriations

This bill provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for restricted funds. Earmarking reduces the ability of the Legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

Since mechanisms for the collection and allocation of the judicial education fee and fund have already been established, the bill would simply require the courts and Taxation and Revenue Department to change the amount of the fee collected with each fine on their forms and records by July 1, 2003.

OTHER SUBSTANTIVE ISSUES

The fee increase proposed by this legislation would generate new funds to compensate for eroding federal funds which JEC has relied upon to supplement its state resources. The additional revenue would also cover anticipated increased mileage and per diem costs for judicial conferences, cost-of-living increases for current JEC employees, expansion of a part-time attorney position to a fulltime FTE and sufficient funding to hire a web-site developer.

RELATIONSHIP

Relates to appropriations in the General Appropriation Act because JEC has a \$283.6 general fund appropriation included under the UNM School of Law Institute of Public Law, and individual courts have training and travel funding included in their FY04 appropriations.

SB91 authorizes courts to collect a drug court fee from drug court participants.

SB114 creates a magistrate court mediation fee.

CMH/njw