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## FISCAL IMPACT REPORT

SPONSOR: Park DATE TYPED: 02/14/03 HB 352

SHORT TITLE: Fines to Reimburse Municipalities for Costs SB \_\_\_\_\_

ANALYST: Hayes

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	(\$555.0)	(\$555.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

*New Mexico Criminal and Traffic Law Manual, 2002 edition*

Responses Received From

Bernalillo County Metropolitan Court (BCMC)

### SUMMARY

#### Synopsis of Bill

House Bill 352 amends Section 34-8A-3 NMSA 1978 and adds subsection (C) which states that the amount of any fine received by a metropolitan court for a violation of a municipal traffic ordinance in excess of the penalty assessment specified in the Motor Vehicle Code shall be transferred to the municipality to reimburse the municipality for costs incurred in law enforcement.

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

#### Significant Issues

1. The only court and municipality this bill would affect is the Bernalillo County Metropolitan Court (BCMC) and the city of Albuquerque. A "metropolitan court" is mainly distinguished from a magistrate court in that it has jurisdiction within county boundaries whose population exceeds 250,000.
2. BCMC is, in fact, collecting penalty assessments in excess of the prescribed penalty as-

assessment. The estimated amount collected by BCMC annually is \$555,000. According to state statute, those fines collected by BCMC are deposited and credited to the general fund. This legislation would mean that the City of Albuquerque would receive the \$555.0 instead of the State of New Mexico.

3. The proposed legislation may conflict with existing constitutional and statutory provisions mandating deposit of all revenue from collected fines into a state fund. See, N. M. Const. Art. XII, §4 (Current school fund) and NMSA 1978, §§22-8-32, 34-8A-2, 35-7-4 (Current school fund). This legislation may require a constitutional amendment.
4. The intent of this legislation is to reimburse the city of Albuquerque for costs associated with law enforcement, i.e., for police officers enforcing traffic laws and other Motor Vehicle Code regulations. One of the duties of law enforcement officers is to enforce such laws. It is unclear why the city of Albuquerque should receive “reimbursement” from the state for such services that it and every other village, town and city in New Mexico performs.
5. In all municipalities other than the city of Albuquerque, fees and fines collected for violation of a municipal traffic ordinances are kept by the municipality. In all municipalities except the city of Albuquerque, the municipalities fund the municipal court; they fund the operating costs of the court along with court services.

However, the Bernalillo County Metropolitan Court in Albuquerque is funded by the State of New Mexico; its operating costs are funded by state general fund monies. In regards to traffic violations, BCMC processes the tickets, completes the data entry and records updates, schedules court hearings, provides all the accounting functions related to traffic tickets and does the collection and deposit of the funds. As a state agency, fines collected are deposited with the state.

## FISCAL IMPLICATIONS

The impact of HB 352 would be the loss of approximately \$555.0 yearly in revenue to the state general fund which would instead be transferred to municipalities.

## POSSIBLE QUESTIONS

1. Does the city of Albuquerque support this legislation? Given the issues noted above regarding city/state jurisdiction, why does the city of Albuquerque want to receive excess penalty assessments? Is the city of Albuquerque seeking new revenues sources to fund its police force and enforcement services?
2. If HB 352 is enacted and the city of Albuquerque receives the monies from excess penalty violations, is the city also going to bear part of the expenses incurred by BCMC for processing traffic violations?
3. Does this legislation violate existing constitutional and statutory provisions mandating deposit of fines into the general fund?