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FISCAL IMPACT REPORT

SPONSOR: Robinson DATE TYPED: 1/27/04 HB _____
 SHORT TITLE: Outstanding Bench Warrants Arrest Fee SB 17
 ANALYST: Koplik

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		See Narrative	Recurring	Metro Court Arrest Fee Fund
		See Narrative	Recurring	Magistrate Court Arrest Fee Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Responses Received From
 Administrative Office of the Courts (AOC)
 Department of the Public Defender

SUMMARY

Synopsis

Senate Bill 17 adds a new section in law to authorize (a) the metropolitan court and (b) a magistrate court to assess a new “law enforcement arrest fee” totaling \$100 against a person arrested on a bench warrant issued by the court. However, if the individual arrested has more than one outstanding bench warrant when arrested, only one law enforcement arrest fee will be charged. The “law enforcement arrest fee” shall be transferred to the law enforcement agency responsible for serving the bench warrant.

Significant Issues

1. In November 2003, there were 180,000 outstanding warrants in the court system dating from 1979. There is considerable potential for revenue. The U.S. Marshal offered to assist in the apprehension of these suspects if the Administrative Office of the Courts would provide a prioritized list. It is unknown if the AOC has facilitated this offer.
2. SB 17 states that if a person for whom a bench warrant is issued voluntarily appears in court, then the law enforcement arrest fee will not be assessed.

3. The \$100 law enforcement arrest fee is assessed *per occurrence of arrest*. This may be perceived as inequitable to someone who is arrested because of a single parking ticket turned bench warrant versus someone who has 50+ violations turned bench warrant, but is assessed the same amount (\$100).
4. Pursuant to AOC data, there were 19,165 magistrate court bench warrants served in FY 2002. For the Bernalillo County Metropolitan Court, there were 11,825 bench warrants served during the same time period.
5. Part of an officer's duty is to arrest people who violate the law. This bill now provides revenue to the officer's department or agency for performing standard law enforcement duties.
6. An offender will be paying a fee for being arrested. Is passage of this bill to encourage people with bench warrants to appear in court voluntarily or is the bill's intent to generate revenue for law enforcement agencies?

FISCAL IMPLICATIONS

This bill creates two new funds: the "metropolitan court arrest fee fund" and the "magistrate court arrest fee fund." The funds are to be administrated by AOC. The funds are appropriated to AOC for the purpose of paying the law enforcement agencies for the expenses of arrests.

Continuing Appropriations

This bill creates new funds and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly-created funds. Earmarking reduces the ability of the Legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

According to the Administrative Office of the Courts, AOC would now be responsible for tracking and issuing a substantial number of vouchers for payment to the law enforcement agencies. Passage of SB 17 would require that the magistrate court staff and the staff of police agencies track the number of warrants that are served each month for the purpose of billing the Administrative Office of the Courts. Bernalillo County Metropolitan Court would face the same administrative issues.

TECHNICAL ISSUES

SB 17 does not indicate how it reconciles with other statutory provisions regulating the path of all monies collected by the New Mexico magistrate courts and metropolitan courts. When courts collect fees, they are required to deposit them with State Treasury. State statutes may need to be amended in order for the "law enforcement arrest fee" to be directed to local law enforcement agencies.

OTHER SUBSTANTIVE ISSUES

It is conceivable that *the law enforcement agency responsible for service of the bench warrant upon which the law enforcement arrest fee is assessed* is not the agency which actually arrests the individual. What happens in those cases? Does the responsible agency receive the fee or does the agency who actually conduct the arrest get the fee?

QUESTIONS

1. What happens if a case gets thrown out or the charges get dropped? What happens if a person is falsely arrested due to incorrect warrant information?
2. What if an individual can not pay the fee? Do they stay in jail? Can community service be offered in lieu of payment of the fee?

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