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FISCAL IMPACT REPORT

SPONSOR Tsosie **DATE TYPED** 02/14/05 **HB** _____

SHORT TITLE Court Costs Refunds in Certain Cases **SB** 687

ANALYST McSherry

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	Indeterminate	Indeterminate	Recurring	General Fund
	Indeterminate	Indeterminate	Recurring	Court Facilities Fund
	Indeterminate	Indeterminate	Recurring	Civil Legal Services Fund
	Indeterminate	Indeterminate	Recurring	Court Automation Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 687 amends the Chapter, “Court Funds and Administration” by creating a new section, “Refund of Fees Permitted for Non-indigent Criminal Defendants” and amending Sections 34-5-6, “Court of Appeals—Fees and Costs,” and 34-6-40, “Finance—Fees.”

The proposed new language provides for the refunding of the following fees to a non-indigent criminal defendant who is either not convicted or whose conviction is overturned: fees collected by a supreme court clerk, fees collected by a clerk of the court of appeals, and the fees collected by a district court clerk when the state does not appeal within statutory time frames.

The bill proposes that fees would be refunded or returned “upon request.”

FISCAL IMPLICATIONS

This bill does not include an appropriation.

Should this bill be enacted, the level of funding received in the court facilities fund, civil legal services fund, court automation fund, and general fund would likely decrease by some amount. It is not clear, however, what amount of funding would be potentially refunded.

The Administrative Office of the Courts (AOC) reports that the refunding of fees upon request will require an allocation of additional resources as a result of increased clerk and financial staff time and involvement. AOC reports that fees are deposited in multiple funds after they are collected, and the refunds would need to be taken from the individual funds.

There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes.

ADMINISTRATIVE IMPLICATIONS

AOC reports that additional administrative time would be required to refund the fees collected and track the removal of funds.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There are no known conflicts or duplications relating to this bill.

TECHNICAL ISSUES

It is not clear what manner in which the nonindigent criminal defendants with a conviction overturned would be required to request refunded fees and costs. Would the request have to be made by a certain time, or in a certain format (written, in person, etc.).

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Fees will continue to be retained when collected from nonindigent criminal defendants whose convictions are overturned.

POSSIBLE QUESTIONS

Is it known how much funding would be eligible for refund should this bill be enacted? If so, how much funding would potentially be refunded from the affected funds?

EM/yr