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## FISCAL IMPACT REPORT

SPONSOR Ryan DATE TYPED 02/25/05 HB \_\_\_\_\_

SHORT TITLE Additional Bernalillo Judgeships SB 963

ANALYST Ford

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$584.4			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 901

#### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Attorney General (AGO)  
 Bernalillo County Metropolitan Court  
 Department of Public Safety (DPS)  
 Department of Transportation (DOT)

#### SUMMARY

##### Synopsis of Bill

Senate Bill 963 appropriates \$584,39 thousand from the general fund to the Bernalillo county metropolitan court for the salaries, benefits, furniture supplies and equipment for two additional metropolitan court judges and support staff.

The bill also establishes a DWI court in Bernalillo county metropolitan court. The chief metropolitan court judge shall designate no less than 5 judges to sit as judges of the DWI court.

##### Significant Issues

The goal of the bill is presumably to help reduce the dismissal rate of DWI offenders in the Ber-

nalillo county metropolitan court by increasing the number of judges and by specifically dedicating at least 5 judges to DWI cases. It has been reported that cases are often dismissed because of scheduling conflicts, with arresting officers scheduled to testify in multiple courtrooms at the same time. The DOT believes that this bill could streamline DWI cases and help avoid scheduling conflicts that result in dismissals.

The AOC and the Bernalillo county metropolitan court both raise serious concerns about the establishment of the DWI court. First, they note that this may violate the principle of separation of powers. The process of establishing divisions in the trial courts has traditionally been reserved to the judiciary's internal policymaking. In addition, the bill conflicts with existing requirements that the chief judge assign cases among the several judges as equitably as possible and by random selection. This helps ensure due process.

The AOC and Bernalillo county metropolitan court also raise concerns about the effectiveness of this bill and argue that it would actually make the current situation worse. They argue that the bill removes the flexibility of the court to assign and reassign cases based on need. If the DWI caseload were to decrease, the chief judge would be unable to reassign the five judges to another category. The Bernalillo county metropolitan court predicts that this bill will lead to increased dismissals based on failure for a timely trial. The court writes, "The Court's scheduling system has evolved over more than twenty years and now ensures that the Court operates quite efficiently with our limited resources. Changes in how law enforcement and other entities schedule into the Court is where correction is needed. Resolution of scheduling issues is complex and requires direct, day- to-day management and is not appropriate for legislation."

### **FISCAL IMPLICATIONS**

The appropriation of \$584,39 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY 06 shall revert to the general fund.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill relates to House Bill 901, which seeks to increase judgeships in several courts, including the addition of two judges to the Bernalillo county metropolitan court. House Bill 901 would appropriate \$584,39 to the court to fund these positions.

### **TECHNICAL ISSUES**

The AGO notes a possible technical problem, writing that the word "Election" on page 1, line 19 should be deleted to reflect the other revisions in Section 34-8A-4.1 NMSA 1978.

The AGO also suggests that the bill clarify whether the DWI court will have *sole* jurisdiction over cases for violations of 66-5-39 and 66-8-102 NMSA 1978.

### **POSSIBLE QUESTIONS**

Does the legislative establishment of a DWI court violate separation of powers and/or due process?

Will the establishment of a DWI court help or hinder the effort to reduce the DWI dismissal rate in Bernalillo county?

Is the request for 2 additional judgeships consistent with the unified budgeted for the Judiciary by the AOC?

**EF/lg**