

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 2/2/2007

SPONSOR Sanchez, M. LAST UPDATED 3/16/2007 HB \_\_\_\_\_

SHORT TITLE Consistent Traffic Fines SB 365/aHJC

ANALYST Schuss

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(Unknown)	(Unknown)	Recurring	Supreme Court Automation Fund/ Court Facilities Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

#### Did not Respond

Department of Transportation (DOT)

### SUMMARY

#### Synopsis of HJC Amendment

The amendment proposed by the House Judiciary Committee changes the title to read:

Relating to motor vehicles, limiting the amount of certain fines and fees imposed by local authorities for certain offenses.

The amendment revises Subsection A of Section 1 to read:

define a nuisance, abate a nuisance and impose penalties upon a person who creates or allows a nuisance to exist, provided that penalties *or fines and costs or fees* imposed by an ordinance for failure to obey a traffic sign or signal *including a red light violation* or for a speeding offense or violation shall *be subject to the following criteria:*

(1) *the total amount assessed in fines, fees and costs shall not exceed one hundred dollars (\$100);*

*(2) except as provided in Paragraph (3) of this subsection, of the amount assessed, two-thirds shall be retained by the municipality to defray the costs of carrying out the program and the remainder shall be distributed to the administrative office of the courts, of which five percent of the total amount assessed shall be credited to the brain injury services fund, three percent shall be credited to the traffic safety education and enforcement fund and the remainder shall be credited to the court facilities fund; and*

*(3) in fiscal year 2008 and not less than once every five fiscal years thereafter, the municipality shall cause an audit of the program to be conducted by the state auditor or an independent auditor selected by the state auditor. If an audit shows that the costs of maintaining the program plus ten percent is less than the amount of the assessment retained by the municipality, the excess shall be distributed to the administrative office of the courts to be credited to the court facilities fund.*

The amendment removes Sections 2 and 3 and replaces them with the following two sections:

*Section 2. TEMPORARY PROVISION--APPLICABILITY.--The provisions of this act shall apply prospectively to all municipal ordinances enacted before or after the effective date of the provisions of this act.*

*Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.*

The amendment to Sections 2 and 3 does not properly correspond to the lines of the bill; neither does the amendment to Subsection A of Section 1.

### Synopsis of Original Bill

Senate Bill 365 requires that any civil or criminal ordinance adopted by a local authority provide the same penalties for failing to obey a traffic sign or signal or for a speeding offense or violation contained in Section 66-8-116, which is the penalty assessment misdemeanor provision of the motor vehicle code. This bill declares an emergency.

### **FISCAL IMPLICATIONS**

The Administrative Office of the Courts states that Senate Bill 365 is likely to decrease penalty assessments that flow into the judiciary's Supreme Court Automation Fund that provides funds to pay for automation in the courts and/or the Court Facilities Fund that pays principal and interest on bonds issued by the New Mexico Finance Authority to build the Bernalillo County Metropolitan Court as well as to fund security and equipment purchases in the magistrate courts statewide. AOC has been investigating the substantial decrease in revenues to these funds. It appears that the present use of camera citations under the Albuquerque STOP program has contributed to the funds' decline.

If fees must be reduced in order to become consistent with Section 66-8-116 then SB 365 could result in a loss of revenue to the municipality.

**SIGNIFICANT ISSUES**

According to AOC, Senate Bill 365 appears to approve a plan such as that used in the Albuquerque STOP program, where traffic citations are not reported to the New Mexico Motor Vehicle Department as penalty assessment misdemeanors, but are instead deemed civil violations that are outside the court and MVD process.

**ADMINISTRATIVE IMPLICATIONS**

Legal challenges to municipal ordinances that impose civil penalties instead of the motor vehicle code penalty assessment misdemeanors will continue, according to AOC. It is not clear what impact enactment of Senate Bill 365 would have on legal challenges that are presently being challenged under the Albuquerque STOP ordinance, except to reduce the fines imposed under the STOP ordinance, typically \$100 for a first offense and \$250 for a second offense, to the assessment levels provided in the motor vehicle code.

**TECHNICAL ISSUES**

AOC notes that Senate Bill 365 does not directly address the lawfulness of a municipal ordinance that makes failure to obey a traffic signal or speeding a civil nuisance instead of applying the misdemeanor penalty assessment provisions of the motor vehicle code. However, Senate Bill 365 implicitly recognizes such a plan as lawful as long as the penalty imposed equals that provided in the motor vehicle code.

BS/csd:nt