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FISCAL IMPACT REPORT

ORIGINAL DATE 01/25/08

SPONSOR Fox-Young LAST UPDATED _____ HB 307

SHORT TITLE Revenue to Cities Imposing Civil Motor Fines SB _____

ANALYST Escudero

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	\$20,700.0	\$15,000.0	Recurring	General Fund
	(\$20,700.0)	(\$15,000.0)	Recurring	City Government

(Parenthesis () Indicate Revenue Decreases) For further reference to this table refer to DFA Analysis, page 1.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Tax and Revenue Department (TRD)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 307 reduces gross receipts distributions on a dollar-for-dollar basis to communities with red light programs using civil rather than criminal penalties for violation of the motor vehicle code. Albuquerque is currently the only city in the State of New Mexico with a red light camera program. The money not sent to Albuquerque is distributed to the General Fund. The overall withheld amount would be about equal to the total penalties collected in Albuquerque

- Albuquerque has adopted a municipal ordinance that recognizes certain traffic offenses as nuisance's subject only to civil municipal fines and not required to be filed in court as traffic citations.
- HB 307 requires that under this scheme, and any similar scheme adopted by any municipality, the amount of gross receipts tax revenue otherwise due to the municipality under NMSA 1978, Section 7-1-6.4 will be reduced by the amount of revenues collected by the municipality under the civil/nuisance traffic scheme.

FISCAL IMPLICATIONS

As stated by AOC, the net result is that the amount of revenues collected by the municipality under its civil/nuisance traffic program will be placed into the general fund by diverting to the general fund that amount from the gross receipts tax revenue that would otherwise have been due to the municipality

Upon annual determination by the Secretary of the Department of Finance and Administration of the amount of revenue collected by a municipality from its civil/nuisance traffic program, the general fund will be increased by that amount by transfer to the general fund of that amount from the gross receipts revenues that would otherwise have been due to the municipality.

The fines and penalties collected by Albuquerque would remain with Albuquerque but under HB 307, gross receipts distributions to Albuquerque would be reduced by the same amount. The reduction to Albuquerque would be redistributed to the General Fund and would be available for appropriation.

According to DFA, this is a table of revenue estimates for the automated enforcement program from the 2008 Mayor's report which provides a basis for fine collections estimates with an assumption of current fees, that the remainder of FY08 matches the first half and growth consistent with that from FY07 to FY08.

	fine collection est.	growth rate	Pre bond/TIDD adj impact
FY07	9,050.4		
FY08	11,648.6	28.7%	
FY09	14,992.7	28.7%	20,699.0 prior two years
FY10	19,296.8	28.7%	14,992.7 prior year
FY11	24,836.6	28.7%	19,296.8 prior year
FY12	31,966.7	28.7%	24,836.6 prior year

- This analysis assumes that the Speed and Speed Van related collections are included in civil penalties from the STOP automated enforcement program. If fees are reduced to \$69, as proposed, and the change went into effect for FY09, the overall impact from FY10 forward would be reduced about half.
- Analysis of potential adjustments to impacts from pre-2/1/08 GRT pledged revenue bond payment requirements and a TIDD municipal dedication is ongoing.
- From the City of Albuquerque FY08 budget, the city received 341,597.0 in gross receipts tax, with 88.5 totals in state share gross receipts tax bonds with maturities from 2001 to 2022 and 26.0 in repayments, and an overall surplus of 6.0 according to LGD.
- The bill proposes a temporary provision for the first year determination to be based on the prior two years, with subsequent year's determination based on one prior year. The bill would take effect with a July 1, 2008 determination affecting FY09 municipal distributions.

According to TRD, this bill provides for a reduced distribution of gross receipts tax revenue to certain municipalities that impose civil, rather than criminal, penalties of violation of the Motor Vehicle Code or the municipality's traffic code.

- On July 1 of each year, the Secretary of Finance and Administration must determine the

amount in civil penalties, fines or other assessment collected during the previous fiscal year by the municipality for violations of the Motor Vehicle Code or the municipality’s traffic code. The Secretary must notify the secretary of taxation and revenue of that determination. Unless the municipality has issued revenue bonds prior to February 1, 2008, that are secured by the pledge of all or part of the municipality’s revenue from the distribution made under this section, subsequent distributions in the current fiscal year to the municipality shall be withheld until the total amount of withheld distributions equals the amount determined by the secretary of finance and administration.

- If the municipality has issued revenue bonds as noted above, until the total amount of withheld distributions equals the amount determined by the secretary of finance and administration, the amount distributed to the municipality in the current fiscal year shall be equal to the lesser of:
 - the amount sufficient to meet any required payment due on the revenue bonds; or
 - the amount that would otherwise be distributed to the municipality except for the provisions described above.

A distribution shall be made to the state general fund in an amount equal to the amount of distributions withheld pursuant to the above formula.

Effective Date: Not specified; 90 days following adjournment (May 14, 2008).

Estimated Revenue Impact*						R or NR**	Fund(s) Affected
FY2008	FY2009	FY2010	FY2011	FY2012	FY 08-12		
None	(20,000)	(10,000)	(10,000)	(10,000)	(50,000)	R	City of Albuquerque
None	20,000	10,000	10,000	10,000	50,000	R	State General Fund
0	0	0	0	0	0	R	Total Taxes

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

The City of Albuquerque has received roughly \$10 million per year in fines associated with civil penalties imposed on “red light” and speeding traffic violations. Of that amount, approximately \$5 million per year is spent on administration of the street intersection camera program.

The 1.225% portion of state gross receipts tax shared with the City is pledged toward revenue bonds, but the Department has no information regarding debt service payment schedules on those bonds. Presumably the \$170+ million per year of 1.225% shared revenue distributed to Albuquerque would be sufficient to cover both the debt service payments and the fiscal impact shown above.

SIGNIFICANT ISSUES

THIS BILL ANALYSIS IS SUBMITTED BY THE AOC AND SHALL NOT BE CONSTRUED AS A SUBMISSION BY THE SUPREME COURT OR ANY OTHER COURT.

It should be noted that HB 307 makes no provision for deducting the costs of running a civil/nuisance traffic program from the gross receipts reduction. The reduction in a municipality’s gross receipts revenue is set at the amount “collected” under by the civil/nuisance traffic program.

As stated by DFA, HB 307 will give the State additional revenues to distribute to other areas of the state. HB 307 makes the State of New Mexico vulnerable to a huge lawsuit on the grounds that it compromises the effectiveness of Albuquerque's home rule charter. If the state is charged with effectively penalizing and compromising a home rule charter initiative, the effectiveness of the home rule option is questioned for other municipalities with home rule or considering adapting home rule.

PERFORMANCE IMPLICATIONS

As stated by DFA, HB 307 presents the potential to lessen or eliminate the surplus Albuquerque currently enjoys in its general fund budget. The mayor of Albuquerque may see HB 307 as a threat to the financial viability of the red light program even though it appears to be reducing accidents in Albuquerque. The result may be for Albuquerque to kill the red light program completely in order to boost GRT distributions.

ADMINISTRATIVE IMPLICATIONS

A small adverse administrative burden on the Department would result from intercepting variable monthly revenue amounts from Albuquerque and redirecting them to the General Fund.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The consequences of not enacting HB 307 will be to allow Albuquerque to exercise its options unfettered under its home rule charter.