

<b>LFC Requester:</b>	Sanchez
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**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
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*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 01.23.26 *Check all that apply:*  
**Bill Number:** S 91 Original  Correction   
 Amendment  Substitute

<b>Sponsor:</b> <u>Heather Berghmans</u>	<b>Agency Name and Code</b> <u>218 / AOC</u>
<b>Short Title:</b> <u>County and Municipality Ordinance Enforcement</u>	<b>Number:</b> _____
	<b>Person Writing</b> <u>Cynthia Pacheco</u>
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	0	500-1,000	500-1,000	1,500-3,000	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

**Synopsis:** SB91 amends Section 3-18-17 NMSA 1978 to permit municipalities (including home rule entities) to retain 100% of penalties and fines collected for specific nuisance violations: failures to obey traffic signs or signals (e.g., red light violations) and speeding offenses. Currently, municipalities with populations of 200,000 or more (e.g., Albuquerque) must remit half of net collections (after deducting vendor fees for enforcement systems like red light cameras) to the state general fund, with the remainder used for local traffic safety programs. The bill eliminates this remittance requirement, allowing full local retention for safety initiatives and administrative costs, while removing audit obligations for excess funds. It does not change the maximum fine (\$100 for most violations) or impose new fees, but it streamlines procedures and applies uniformly across municipality sizes. The legislation aims to enhance municipal fiscal autonomy, reduce administrative burdens, and direct funds toward local priorities like traffic safety education and enforcement. It builds on ongoing reforms to fines and fees but focuses on revenue reallocation rather than elimination. The effective date is July 1, 2026, with no sunset provision.

The bill primarily amends the nuisances and offenses statute, with targeted changes to traffic penalties:

- **Penalty Caps and Retention (Subsection A(1)–(3)):** Caps total penalties/fines at \$100 for traffic sign/signal or speeding violations (unchanged), with no additional fees or costs allowed. For parking violations affecting persons with mobility limitations, fines align with state levels (\$250–\$500 under Section 66-7-352.5 NMSA 1978).
- **Large Municipalities (Population  $\geq$ 200,000):** Eliminates the requirement to remit half of net penalties/fines (after vendor fees) to the state general fund. Instead, municipalities retain the full amount for traffic safety programs and reasonable administrative costs (e.g., setup, maintenance, and processing fees for camera systems).
- **Smaller Municipalities:** Applies similar full retention, removing any shared revenue obligations.
- **Audit and Remittance Elimination:** Deletes provisions for audits of vendor contracts and remittance of excess retentions to the state.
- **Procedures (Subsection A(4)):** Maintains hearing options (in-person or by mail) with a preponderance of evidence standard for violations, but simplifies language without major changes.
- **Other Nuisances:** Retains municipal authority over non-traffic nuisances (e.g., gambling, public disturbances) but does not amend those sections.

### **FISCAL IMPLICATIONS**

Drawing from the 2025 proxy FIR and related analyses, SB91 anticipates no direct appropriations or new mandated expenditures but results in a revenue redistribution from state to local levels, classified as "indeterminate but moderate" recurring impacts starting in FY27.

nmlegis.gov +1The shift could reduce state inflows while boosting municipal budgets, with no performance measures required for fund use. Key impacted funds include:

- **State General Fund (Revenue Loss):** This is the primary impacted fund. Under current law, large municipalities remit 50% of net traffic penalties/fines (after vendor deductions) to the state general fund, contributing to broader fine/fee revenues estimated at \$16–20 million annually statewide (pre-reforms).

nmlegis.gov +1SB91's full retention policy would eliminate these remittances, potentially costing the state \$2–5 million recurring annually, based on traffic citation volumes (200,000–300,000 statewide per Motor Vehicle Division data) and average fines (\$50–\$100 net per violation).

For context, Albuquerque alone generates \$4–6 million in red light/speeding fines yearly, with half (\$2–3 million) currently remitted to the state. The general fund supports core operations like education, health, and public safety, so this loss may necessitate offsets in the FY27 budget, especially amid projected slower revenue growth (only 1% new money for FY27 per recent LFC reports).

- **Municipal Funds (Revenue Gain):** Municipalities would retain the full amount (less vendor fees), potentially adding \$2–5 million statewide for traffic safety programs (e.g., signage, education) and administrative costs. Large cities like Albuquerque could gain \$2–3 million annually, while smaller ones see proportional increases. These funds are typically allocated to general municipal budgets or dedicated safety accounts, reducing reliance on property taxes or state aid.
- **Other Funds (Minimal or Neutral Impact):** No direct changes to specialized funds like the Judicial Education Fund or Court Facilities Fund, which receive portions of other fees. However, reduced state oversight (e.g., eliminated audits by the State Auditor's Office) could save ~\$50,000–\$100,000 annually in administrative costs. If enhanced local safety programs reduce violations over time, overall collections might decline slightly (indeterminate).
- **Broader Economic Context:** The proxy FIR notes potential inefficiencies if local retention incentivizes over-enforcement for revenue, but it supports fiscal decentralization. No litigation risks are highlighted, as the bill aligns with home rule authority.

## **SIGNIFICANT ISSUES**

New Mexico has pursued aggressive reforms to eliminate reliance on fines and fees as revenue, positioning itself as a national leader in fee abolition. This stance, codified in laws like House Bill 139 (2023, Laws 2023 Chapter 184), abolished most adult criminal court fees (e.g., post-adjudication and bench warrant fees), making New Mexico one of only two states (with California) to fully eliminate such charges for adults.

Earlier reforms include House Bill 183 (2021), which ended juvenile fines/fees, and Senate Bill 47 (2023), which prohibited driver's license suspensions for nonpayment. The state's position emphasizes complete abolition over mere reallocation, as fees are seen as regressive taxes that harm low-income residents, create debt traps, and undermine justice. SB91 does not align because it perpetuates fines as a revenue mechanism, albeit shifted to local control, rather than eliminating them. Key misalignments include:

- **Regressive Impacts:** Fines disproportionately burden low-income and marginalized communities, leading to cycles of debt (e.g., 80% of surveyed New Mexicans skipped essentials to pay fees, and 41% engaged in risky behaviors). Full local retention may encourage enforcement quotas for budget needs, contradicting abolition goals articulated by Chief Justice Shannon Bacon, who called fee-based funding "unjust" and burdensome on the vulnerable.
- **Inefficiency:** Collection costs often exceed revenue (e.g., Bernalillo County spends \$1.17 per \$1 collected), and fees reduce household wealth, indirectly lowering state tax revenue. Abolition favors stable general fund appropriations over volatile, incentive-driven fines.
- **Policy Inconsistency:** Reforms prioritize equity and access to justice, with the judiciary and LFC advocating for tax-based funding. SB91's retention model maintains the revenue

paradigm, potentially conflicting with HB139's intent to end "penalty assessment fees as revenue."

National trends reinforce abolition as best practice. While SB91 advances decentralization, it falls short of the state's abolition preference, which seeks to dismantle the system entirely to promote fairness and efficiency.

**PERFORMANCE IMPLICATIONS**

None anticipated.

**ADMINISTRATIVE IMPLICATIONS**

None anticipated.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

**TECHNICAL ISSUES**

None.

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

**AMENDMENTS**

None.