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## FISCAL IMPACT REPORT

SPONSOR:     Martinez                          DATE TYPED:     02/05/03        HB     228    

SHORT TITLE:     Increase Local Government Correction Fee        SB                     

ANALYST:     Martinez    

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$1,321.0	1,442.0	Recurring	Local Government Corrections Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration

Administrative Office of the Courts

Taxation and Revenue Department

### SUMMARY

#### Synopsis of Bill

House Bill 228 increases the amount of Local Government Corrections Fees and amends sections of NMSA 1978. The fees pertain to any county without a metropolitan court, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code regarding the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment. The applicable fee is increased from \$10 to \$20.

The bill also proposes that every municipality shall enact an ordinance requiring assessment of corrections fees, judicial education fees and court automation fees to be collected as court costs and used as provided in this section. This legislation defines "convicted" to mean the defendant has been found guilty of a criminal charge by a municipal judge, either after trial, a plea of guilty or a plea of no contest. The applicable corrections fee is increased from \$10 to \$20.

This legislation also amends the penalty assessment for misdemeanors in counties without a metropolitan court. This fee increases from \$10 to \$20 in order to help defray the costs of local government corrections. The effective date for this proposed fee and the creation of the fund is July 1, 2003.

### **FISCAL IMPACT**

The Motor Vehicle Division (“MVD”) of the Taxation and Revenue Department is responsible for collecting only one of the three fees being increased in the bill. This fee is projected to create revenue of \$1,442,000 in FY 2004.

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

### **OTHER SUBSTANTIVE ISSUES**

This legislation adds “alternatives to incarceration” to the list of authorized uses of this fund. It is recommended that this language be clarified unless clarified or defined elsewhere in statute. Without clarification, this provision could enable various unintended providers to apply to receive these funds. This may be detrimental to existing jail and detention center budgets and/or contracts.

Clarification and parity regarding actual applicability to counties with a metropolitan court may be necessary. According to the Administrative Offices of the Courts, the Chief Judges Council may oppose new fees or increases fees that do not support direct court operation. In addition, conflicts between this proposal and current municipal law may exist. As an example, citizens ticketed in Bernalillo County may be charged \$6 less in fees for each citation as correction fees are not charged in counties with a metropolitan court.

MM/yr