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FISCAL IMPACT REPORT

SPONSOR: SJC DATE TYPED: 3/12/03 HB _____

SHORT TITLE: Create Lengthy Trial Fund SB 725/SJCS

ANALYST: Chavez

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	Indeterminate		Recurring	New Lengthy Trial Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
LFC Files

SUMMARY

Synopsis of Bill

Senate Bill 725 creates the lengthy trial fund for the purpose of providing full wage replacement or wage supplementation to jurors who serve as petit jurors for more than ten days. The following provides a further synopsis of the bill:

- Establishes a “lengthy trial fund fee” of twenty dollars (\$20.00) which will be collected from a party who files a jury demand in a civil case in *district court* for deposit in the lengthy trial fund;
- provides for exemptions from payment of the lengthy trial fee fund;

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- interest earned on money in the fund will be credited to the fund;
- balances in the fund will not revert at the end of any fiscal year;
- the fund is to be administered by the Administrative Office of the Courts;
- payments from the lengthy trial fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts or the director's designee upon warrants drawn by the secretary of finance and administration;
- amends Section 38-5-1 NMSA 1978 pertaining to the qualifications of jurors by rendering undue or extreme physical or financial hardship as well as, the potential delay in the delivery of health care to a patient by a physician or a dentist, conditions that make a person incapable of rendering jury service;
- amends Section 38-5-2 NMSA 1978 pertaining to exemption from jury service by setting forth conditions which at the discretion of the judge of the court for which the jury has been called may exempt a person from jury service; among the conditions are a 1) person's mental or physical condition; 2) undue or extreme physical or financial hardship and 3) jury service may delay the delivery of health care to patients; necessary action must be taken to obtain a ruling on the request no later than the date on which the person is scheduled to appear for jury duty;
- amends Section 38-5-11 NMSA 1978 pertaining to qualifying jury panels by deleting current language that allows a district judge or his designee or magistrate or his designee to excuse, exclude or postpone the services of any person on the basis of certain conditions including 1) physical or mental illness, 2) written request from the person's employer on the ground that his services are essential or 3) the person's prior business, professional or educational commitments conflict with jury service; however number 1 still remains a condition for exemption under Section 38-5-2 NMSA 1978 (see above bullet); a certified list of jurors and the questionnaires shall be made available for inspection and copying by a party no later than *48 hours before trial*; the court may also require additional questionnaires that relate to the specific case for which jurors are called;
- amends Section 38-5-12 NMSA 1978 pertaining to petit jury panels to provide that a person shall not be required to remain available for service on a jury panel for more than three months after being qualified as a panel member;
- amends Section 38-5-13 NMSA 1978 pertaining to jury lot slip containers to provide that whatever method of random selection of jurors is used, the court shall make available to the parties the names of jurors and the order of jurors drawn for trial no later than *48 hours before the trial*;
- amends Section 38-5-15 NMSA 1978 pertaining to mileage and compensation for jurors by providing that 1) only a juror who serves on a petit jury for more than ten days qualifies for payment from the lengthy trial fund if the jury service commenced on or after September 30, 2003 (the effective date of the act), 2) payment is limited to the difference between the highest state minimum wage rate and the actual amount of wages a juror earns up to the maximum level payable and minus any amount the juror receives from an

employer during the same time period; 3) allows for the payment of replacement or supplemental wages from the fund of up to \$300 per day per juror beginning on the eleventh day of service, 4) provides for replacement or supplemental wages of up to \$100 per day from the fourth to the tenth day of jury service if the court finds that lengthy jury service poses a financial hardship even in light of payments made after the tenth day of service; 5) allows for self-employed jurors or jurors who receive compensation other than wages to provide required documentation; a juror may submit a request for payment from the fund by providing required documentation;

- amends Section 38-5-18 NMSA 1978 pertaining to the prohibition of employers from penalizing employees for jury service by adding language which prohibits an employer from requiring or requesting an employee to use annual, vacation or sick leave for time spent responding to a summons for jury service, participating in the jury selection process or serving on a jury and states that an employer is not required to provide annual, vacation or sick leave to employees who are not otherwise entitled.
- The effective date of the provisions of this act is September 1, 2003.

Significant Issues

The Senate Judiciary Committee Substitute for Senate Bill 725 addresses some of the main concerns of the judiciary such as eliminating the language that provides for the service of jurors to be for no more than one court day in actual attendance.

Although the judiciary believes that current jury issues should be assessed, they feel that an interim committee would serve as the better forum for such discussions. Legislation discussed during the interim would enable the judiciary to better assess and determine the potential impact addressed by the legislation. Further, more involvement by critical parties would allow for legislation that is crafted to address the concerns of those parties.

The bill requires courts to collect and account for money related to the lengthy trial fund. According to AOC, it could result in the need for more personnel to assist with such collection and accounting at the trial court level. Further, AOC is required to administer this fund and it is indicated by AOC that additional administrative support will be needed.

FISCAL IMPLICATIONS

The bill proposes to create a "lengthy trial fund fee" of \$20 from each party who files a jury demand in a civil case in *district court* for deposit in the lengthy trial fund. Balances in the fund will not revert at the end of any fiscal year.

The estimated additional impact will be determined by the number of additional FTE needed by the courts and AOC to carry out the provisions of the bill.

ADMINISTRATIVE IMPLICATIONS

The AOC will have additional responsibilities pertaining to the administration of the fund in addition to the court personal who must collect and account for the money going to the lengthy trial fund.

TECHNICAL ISSUES

*****The title of the bill includes “making an appropriation,” but no appropriation is made in the bill.

OTHER SUBSTANTIVE ISSUES

Currently, there is a civil jury demand fee in district court. In accordance with NMRA 1-038, the fee for a six person jury is \$100.00 and the fee for a twelve person jury is \$200.00. The \$100.00 or \$200.00 amount is charged for payment of jurors each day that the jury is engaged in trial in the case.

It should be noted that although very few trials exceed ten days, it will take time to acquire a reserve of money in the lengthy trial fund.`

The AOC currently administers various funds such as the jury and witness fee fund, the judges pro tempore fund, court-appointed special advocate fund, supervised child visitation fund, court appointed attorney fee fund and the water rights litigation fund. The addition of another fund to be administered by the AOC is of concern since the AOC has in the past had problems with reconciling the various funds under their control.

POSSIBLE QUESTIONS

1. Since the caseload for the courts has remained flat, thus limiting the amount of money going into the lengthy trial fund, is there sufficient money to provide for 1) full wage replacement or wage supplementation to jurors who serve as petit jurors for more than ten days, and 2) to further provide for replacement or supplemental wages of up to \$100 per day from the fourth to the tenth day of jury service if the court finds that lengthy jury service poses a financial hardship even in light of payments made after the tenth day of service?

FC/yr/lr:njw