

<b>LFC Requester:</b>	<b>Austin Davidson</b>
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

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**SECTION I: GENERAL INFORMATION**

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

Check all that apply:  
**Original**        **Amendment**      
**Correction**        **Substitute**   

**Date** 1-18-24  
**Bill No:** SB 29

**Sponsor:** Michael Padilla

**Agency Name and Code**    Metro Court 244  
**Number:**    AOC 218

**Short Title:**    Metro Courts Emergency Property Reserve

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
\$0.00	\$1,000.0	<b>Non-Recurring</b>	From General Fund to Court Emergency Property Reserve Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
		\$365.4	Recurring	Metropolitan Court Parking Fund
		\$142.9	Recurring	Court Facilities Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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:** **Section 1** of Senate Bill 29 proposes to amend NMSA 1978, § 34-8A-14 (2000), to remove the reference to the “court facilities fund” and replace it with the creation of a new fund called the “**metropolitan court parking fund**” that would be administered by the Bernalillo County Metropolitan Court. Section 34-8A-14 concerns the Metropolitan Court’s administration and management of its parking facility that is adjacent to the Metropolitan Court. The “metropolitan court parking fund” would be funded by parking fees, rents, and other charges by the Metropolitan Court to the public or any private tenant, together with any gifts, grants, donations, appropriations and distributions to the fund that are made pursuant to the Tax Administration Act. All balances in the Metropolitan Court Parking Fund will be used for the primary purpose of maintenance and operation of the Metropolitan Court’s parking facility and for the secondary purpose of partially paying for costs of emergency or unforeseen repair, reconstruction, or replacement of Bernalillo County Metropolitan Court property and expenses incidental thereto and that are not otherwise covered by warranty, capital appropriation, or insurance, or pursuant to Chapter 13, Article 5 NMSA 1978. Payments from the fund shall be made by warrants drawn by the secretary of finance and administration pursuant to vouchers issued and signed by the Bernalillo County Metropolitan Court administrator. The “metropolitan court parking fund” would be effective July 1, 2025, and any balance remaining in the fund would not revert to the general fund at the end of the fiscal year.

**Section 2** of the Bill proposes the creation of a new section in Chapter 34, Article 9 NMSA 1978 to create a fund called the “**court emergency property reserve fund**” that would be administered by the Administrative Office of the Courts. The fund would be used for the purpose of paying for the costs of emergency or unforeseen repair, reconstruction, or replacement of court-owned property and expenses incidental thereto that are not otherwise covered by warranty, capital appropriation, or insurance, or pursuant to Chapter 13, Article 5 NMSA 1978. The fund could also be used to pay the costs of administering the fund. The fund will consist of gifts, grants, donations, appropriations, and distributions to the fund made pursuant to the Tax Administration Act. Disbursements from the fund shall be drawn on warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the Administrative Office of the Court, or designee. Money in the fund shall be invested by the State Treasurer by law, and earnings of the fund shall be credited to the fund. The “court emergency property reserve fund” would be effective July 1, 2024, and any

balance remaining in the fund would not revert to the general fund at the end of the fiscal year.

**Section 3** of the Bill proposes to amend NMSA 1978, § 34-9-14 (1998, amended 2000), regarding the purpose for the funds in the existing **“court facilities fund.”** This fund was originally created for the purpose of paying the principal, interest, and other expenses or obligations related to the bonds that were issued by the New Mexico Finance Authority for the acquisition of real property and for the design, construction, furnishing, and equipping of the Bernalillo County Metropolitan Court and adjacent parking facility. As those bonds shall have been paid and satisfied in full by June 30, 2025, the Bill proposes to amend the purpose of the “court facilities fund” so that effective July 1, 2025, the funds would instead be used by the Administrative Office of the Courts for emergency or unforeseen repair, reconstruction, or replacement of the Bernalillo County Metropolitan Court property and expenses incidental thereto that are not otherwise covered by warranty, capital appropriation, or insurance, or pursuant to Chapter 13, Article 5 NMSA 1978. The Bill also provides that any unexpended or unencumbered balance remaining in the fund at the end of the fiscal year would not revert to the general fund.

**Section 4** of the Bill proposes to amend NMSA 1978, § 35-6-1 (1953, as amended through 2023) so that the existing civil docket fee of \$72.00 would now only apply in a county with a metropolitan court, and in any other county, the civil docket fee would now be \$35.00. The Bill further proposes to amend Section 35-6-1 to remove the copying fee of \$1.00 per page that is to be charged by Magistrate and Metropolitan Courts when a document is computer generated or electronically transferred. The Bill would be effective July 1, 2024, and as such, it reflects the prior amendments to Section 35-6-1 from the 2023 Legislative Session, which prior amendments are also effective July 1, 2024.

**Section 5** of the Bill, which would be effective July 1, 2024, proposes an appropriation of \$1,000,000.00 from the general fund to the **“court emergency property reserve fund”** for expenditure in fiscal year 2025 and subsequent fiscal years.

## **FISCAL IMPLICATIONS**

**Section 1 - Metropolitan Court Parking Fund:** Since the construction of the Bernalillo County Metropolitan Courthouse and adjacent parking facility, in accordance with NMSA 1978, § 34-8A-14 (2000), “all rents, parking fees and charges” collected by the Bernalillo County Metropolitan Court for its parking facility after payment related to the “fixed costs of operating and maintaining the parking facility” were deposited into the “court facilities fund.” The “court facilities fund” in turn was originally created by NMSA 1978, § 34-9-14 (1998, amended 2000) for the purpose of paying the principal, interest, and other expenses or obligations related to the bonds that were issued by the New Mexico Finance Authority for the acquisition of the real property and design, construction, furnishing, and equipping of the Bernalillo County Metropolitan Court in Albuquerque. But, as those bonds from the construction of the Metropolitan Courthouse and parking facility will be paid and finally satisfied by June 30, 2025, by **Section 1** of this Bill, it is being proposed that those same revenues from the “rents, parking fees and charges” collected by the Metropolitan Court from the public, tenants, or other users of the Metropolitan Court’s parking facility now be deposited in a new fund called the “metropolitan court parking fund” and be used for the maintenance and operation of that parking facility.

**Bonds Owed for the Construction of the Metropolitan Courthouse and Parking Facility**

- FY2024 \$3,936,000 (Includes principal & interest due by June 30, 2024)
- FY2025 \$3,937,500 (Includes principal & interest due by June 30, 2025)

The Metropolitan Court parking facility is 21 years old, and as that facility ages, the costs to maintain and operate that facility are considerable when compared with revenues as follows (and do not include significant repairs or replacement of infrastructure as many systems are reaching end of life):

**Expenses of Operating the Parking Facility**

- FY21 - \$300,582
- FY22 - \$422,371
- FY23 - \$403,345

**Revenues from the Metropolitan Court Parking Facility**

- FY21 - \$287,031
- FY22 - \$405,855
- FY23 - \$403,345
  
- FY26 - \$365,410 (*Projected Revenue for FY 26 as that is when the Metropolitan Court Parking Fund would begin under this Legislation and is based on the Average of the Prior Revenue for FY 21, 22, and 23*)

The revenues generated by the Metropolitan Court’s parking facility have not always been enough to cover the Metropolitan Court’s cost of operating the parking facility, and such expenses have been covered by the General Fund as follows:

**Additional Parking Facility Expenses Covered by the General Fund Revenues**

- FY2022 - \$35,569
- FY2024 - \$50,260

**Sections 3 and 4 – Court Facilities Fund:** Section 3 of the Bill proposes to amend NMSA 1978, § 34-9-14 (1998, amended 2000) effective July 1, 2025, so that when the bonds for the construction of the Metropolitan Courthouse and parking facility are paid off by June 30, 2025, the “court facilities fund” can continue; but as it would no longer be needed to pay down the bonds, it would instead be used by the Administrative Office of the Courts to pay for the costs of “emergency or unforeseen repair, reconstruction or replacement” of the Metropolitan Court property and expenses incidental thereto. Given the age of the Metropolitan Court, inevitable repairs and replacement of key mechanical systems will continue to arise, and the Court has already been incurring significant costs in addressing these issues. As the Metropolitan Court is a 24/7 operation, when these emergency repairs arise, they have to be addressed immediately so that the Court can continue its operations.

**Examples of unforeseen repair costs (in FY 24) for the Metropolitan Court include:**

- \$8,616 - Fire Alarm and Related Fire Safety Systems Repairs
- \$25,371 – Replace Dry Valve and Compressor
- \$3,759 – Repair Boiler

- \$6,507 – Sidewalk Repair
- \$9,241 – HVAC Services
- \$1,040 – Heat Valve Replacement
- \$1,240 – Boiler Motor
- \$7,106 – Replace Damaged Dock Door
- \$1,243 – Repair Compressor
- \$5,246 – Boom Repair
- \$1,875 – HVAC Repair (*Parking Facility*)
- \$6,639 – Fire Sprinkler Leak Repair (*Parking Facility*)

With the proposed amendment to NMSA 1978, § 35-6-1 (1953, as amended through 2023) in **Section 4** of the Bill, the revenues that would go into the “court facilities fund” would be \$12.00 of each civil docket fee collected in the Metropolitan Court, as well as copy costs. Currently, per Section 35-6-1, a \$72.00 docket fee is charged when a civil case is initiated in either the Metropolitan Court or in a Magistrate Court, which is allocated as follows:

**Civil Docket Fee of \$72:**

- \$20.00 - to “court automation fund” per Section 35-6-1
- \$15.00 - to “civil legal services fund” per Section 35-6-1
- \$25.00 - to Employer’s Accumulation Fund for Judicial Retirement per NMSA 1978, § 10-12B-11(B) (1992, as amended through 2014)
- \$12.00 – to “Court Facilities Fund” per Section 35-6-1

With the proposed amendment to Section 35-6-1 in **Section 4** of the Bill, only the Metropolitan Court would continue to charge a \$72.00 civil docket fee, and the Magistrate Courts would instead only charge \$35.00. Therefore, with this Bill, effective July 1, 2024, only the civil docket fee revenues generated in the Metropolitan Court would be deposited into the “court facilities fund,” and the civil docket fees collected in the Magistrate Courts would only go to the “court automation fund” and the “civil legal services fund” as per Section 35-6-1 (*see chart above*).

The portion of the civil docket fee revenue that has been generated in the Metropolitan Court for the past three fiscal years and transferred to the Court Facilities Fund is as follows:

**Civil Docket Fee (Representing \$12 of each \$72 Docket Fee Collected in the Metropolitan Court and Transferred to the Court Facilities Fund):**

- FY21 - \$134,496
- FY22 - \$120,960
- FY23 - \$149,793
- FY26 - \$135,083 (*Projected Revenue for FY 26 as that is when the Change to the Purpose of the Court Facilities Fund would take effect under this Legislation and is based on the Average of the Prior Civil Docket Fee Revenue for FY 21, 22, and 23*)

In addition to the civil docket fee revenues, copy fees would also continue to go into the “court facilities fund.” In the past three fiscal years, the copy fees collected in the Metropolitan Court and transferred to the Court Facilities Fund are as follows:

**Copy Fees\* Collected in the Metropolitan Court and Transferred to the Court Facilities Fund:**

- FY21 - \$9,518
- FY22 - \$8,402
- FY23 - \$5,562
  
- FY26 - \$7,827 (*Projected Revenue for FY 26 as that is when the Change to the Purpose of the Court Facilities Fund would take effect under this Legislation and is based on the Average of the Prior Copy Fee Revenue for FY 21, 22, and 23*)

**TOTAL (From Above of Civil Docket Fees & Copy Fees\* Collected in the Metropolitan Court and Transferred to the Court Facilities Fund):**

- FY21 - \$144,014
- FY22 - \$129,362
- FY23 - \$155,355
  
- FY26 - \$142,910 (*TOTAL - (Projected Revenue for FY 26 as that is when the Change to the Purpose of the Court Facilities Fund would take effect under this Legislation and is based on the Average of the Combined Prior Civil Docket Fee Revenue and Copy Fee Revenue for FY 21, 22, and 23)*)

\*These copy fee numbers do not include any additional copy fees that would be collected by the Magistrate Courts and that also would be transferred to the “court facilities fund.”

**Section 4** of the Bill also proposes to amend Section 35-6-1 to remove a copying fee of \$1.00 that is to be charged per page for computer generated or electronically transferred copy. When Section 35-6-1 was amended in 1991 to add this copying fee, the electronic transmission of documents was through fax machines using thermal paper with dedicated phone lines and associated long distance charges and as such was very costly. However, since that time, with the creation of electronic mail and other technological platforms for electronically transmitting documents, this portion of Section 35-6-1 has become archaic, and it is no longer reasonable to require a fee to be charged to electronically transmit a document. But, if a paper copy of a document is provided (whether printed from a computer or made by copying another document), the copying fee of \$0.50 per page that would remain in Section 35-6-1 would continue to apply.

**Sections 2 and 5 - Court Emergency Property Reserve Fund:** **Section 2** of the Bill proposes the creation of a new fund in Chapter 34, Article 8 called the “**Court emergency property reserve fund**,” which would be administered by the Administrative Office of the Courts for the “emergency or unforeseen repair, reconstruction or replacement” of any “court-owned property” and “expenses incidental thereto.” **Section 5** of the Bill proposes a \$1,000,000.00 appropriation to this fund.

This emergency property reserve fund will allow the courts to make emergency repairs on court owned facilities, which include the New Mexico Supreme Court, Court of Appeals, without using funds which were appropriated for other purposes. It is not always possible to anticipate repair costs that will arise in a fiscal year. Without a dedicated fund to address these unforeseen expenses, these costs must be paid out of general fund appropriations,

which can put a significant strain on operating budgets and take away from other important programs and functions. This fund would have a significant, positive fiscal impact on the courts, as it would allow the courts to address emergency repair needs without impacting general funds.

**Recent examples of unforeseen repair costs for the NM Supreme Court are:**

- Boiler valves - \$5,000
- Heating Radiators - \$10,000
- Cooling system - \$15,000
- Leaking sewer and heating pipes- \$10,000 to \$15,000
- Lost Water Treatment chemicals due to HVAC/Boiler repairs - \$2,000
- Electrical repairs - \$20,000
- Indoor Air Quality Repairs due to asbestos, Radon, and mold and re-carpeting/tiling - \$50,000

**Examples of unforeseen repair costs for the Court of Appeals include:**

- \$33,000 - repair to elevator and control box
- \$9,492 - access control system, front door
- \$2,750 - heating system
- \$1,451 - lighting system
- \$1,256 - chilled water system
- \$4,611 - electronically controlled door
- \$1,550 - automatic door repair
- \$600 - water line repair
- \$1,833 - repair water leak
- \$2,200 - repair lighting system in courtroom
- \$1,298 - HVAC repair
- \$102 - front door
- \$11,000 - elevator
- \$183 - water pump
- \$6,226 - steam valves hot water system
- \$372 - plumbing
- \$1,233 - hot water pump

**SIGNIFICANT ISSUES**

None. Deferred maintenance can have a cascading effect on facilities' systems, which can cause an increase in costs over time, if building systems such as plumbing, heating, cooling, and electrical systems are not properly maintained and repaired in a timely manner. Therefore, building maintenance often has to take precedence over other funding priorities, to keep the buildings operational and avoid increased maintenance costs in the future. This means that the courts have to find funding for building maintenance from other funds which were budgeted for different priorities. This Bill would create a separate maintenance fund, from which the courts could draw for the unforeseen expenses. Therefore, the courts would not have to make a decision about what other programs would have cuts in funding to pay for building repairs. This would allow the programs within the courts to use the full amount of funding appropriated to them without worrying about cuts due to emergency building maintenance needs. This would allow for more accurate budgeting and more efficient administration of court programs.

**PERFORMANCE IMPLICATIONS**

None - See Administrative Implications below.

**ADMINISTRATIVE IMPLICATIONS**

None. As the Bernalillo County Metropolitan Court is already administering its receipt of the revenues from its parking facility and then using those revenues for the operation and maintenance of that facility, there are no administrative implications for the Metropolitan Court to **Section 1** of this Bill with the creation of the new “**metropolitan court parking fund.**” Similarly, as the Metropolitan Court has also long been accounting for the revenues that it has received from the civil docket fees and copying fees collected in the Court and transmitting those revenues to the “**court facilities fund,**” which will continue to be administered by the Administrative Office of the Courts, there are likewise no administrative implications for the Metropolitan Court to the proposed changed purpose of this fund in **Section 3** of the Bill.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None

**TECHNICAL ISSUES**

None

**OTHER SUBSTANTIVE ISSUES**

None

**ALTERNATIVES**

None

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

Status quo

**AMENDMENTS**

None