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## FISCAL IMPACT REPORT

SPONSOR Hamilton DATE TYPED 2/23/05 HB 476/aHJC

SHORT TITLE Magistrate Court Warrant Management Fee SB \_\_\_\_\_

ANALYST McSherry

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			\$0.6	Non-Recurring	General Fund
			\$12.6	Recurring	General Fund

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	\$946.7	\$946.7	Recurring	Magistrate Warrant Enforcement Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files  
Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of HJC Amendment

The proposed amendment to House Bill 476 would clarify the local government entity which would receive the proposed warrant management fees as the counties. The amendment also clarifies that the purpose of the fee: “for the expense of managing and administering bench warrants.”

#### Synopsis of Original Bill

House Bill 476 proposes to amend Section 35-6-5, NMSA 1978, “Magistrate Court Warrant Enforcement Fund — Fee — Administration — Use of Money in Fund.” The bill changes the title to include “fees” rather than “fee.” In addition to the warrant enforcement fee (\$100.0), the bill

adds a second fee that would be deposited in the existing Magistrate Court Warrant Enforcement Fund, a warrant management fee (\$50.0). The management fee funds collected are proposed to be distributed by the AOC each quarter to the counties. The funds received by the counties would be for the purpose of managing and administering bench warrants. A total of one hundred fifty dollars (\$150) would be assessed upon the issuance of a bench warrant against the individual whose arrest is commanded by the bench warrant. The fees collected would be deposited into the magistrate court warrant enforcement fund. All balances would be appropriated to the Administrative Office of the Courts (AOC) and remaining balances in the magistrate court warrant enforcement fund at the end of a fiscal year would not revert to the state general fund.

According to the AOC, the primary purpose of the existing one hundred dollar (\$100) warrant enforcement fee is to employ personnel and purchase equipment and services to aid in the collection of fines, fees or costs owed to the magistrate courts and the secondary purpose is to partially reimburse law enforcement agencies for the expense of servicing bench warrants issued by the magistrate courts.

### Significant Issues

The Warrant Enforcement Fund is a non-reverting fund.

According to the Supreme Court, the judiciary is generally opposed to any increase in court fees.

### **PERFORMANCE IMPLICATIONS**

AOC reports that FY 2005 is the second year that the courts are participating in performance based budgeting and that this bill may have a significant impact on the performance based budgeting measures identified for fiscal year 2006, which may result in a need for additional resources.

### **FISCAL IMPLICATIONS**

The creation of the additional fee to be deposited in the Warrant Enforcement Fund should cause revenues into the fund to increase by 50 percent, should the same number of warrants be collected upon. According to the proposed bill, all additional revenues would be designated for the particular use of managing warrant databases. The budget for the local government agency would increase by the revenues generated by the proposed fee.

The AOC reports that the \$50 warrant management fee could generate an estimated \$946,714 from only the courts, and that none of the monies collected will be used to support the additional duties required of the courts or the AOC to properly manage the warrant management fee. \$0.6 thousand dollars is estimated by the AOC to be a one time cost required to update the FACTS system which currently tracks warrant enforcement funds and collection. The AOC also estimates a recurring expense of \$12.6 thousand to the general fund; this would cover wages of a part-time coordinator FTE responsible for the additional administrative duties projected by the agency to be necessary to implement collection and tracking of the proposed fee.

During fiscal year 2004, the magistrate courts report that approximately 23,982 warrants were served by law enforcement agencies and that 78 percent of the warrant enforcement fees were collected. The AOC asserts that the implementation of additional warrant management fees has

the potential to reduce the amount of fees collected by the courts and that the same would happen should any fee be increased.

### **ADMINISTRATIVE IMPLICATIONS**

The AOC reports that enacting House Bill 476 would increase the administrative duties of the agency because the bill requires the distribution of proposed fees to local governments.

### **TECHNICAL ISSUES**

The bill is not specific regarding the manner of distributing fees to the counties. Fees could be distributed based upon the proportion of the total fees collected, or by fees assessed, per county; fees could also be distributed according to the determined “need” for management funds in each county.

AOC cites that the Department of Public Safety NCIC Director has requested a report to indicate the specific number of agencies that manage warrants.

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

If HB 476 does not pass, the Warrant Enforcement Fund will continue to be funded solely through warrant enforcement fees of \$100.

If HB 476 does not pass the counties would not receive funds from the Warrant Enforcement Fund.

**EM/lg:yr**