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## FISCAL IMPACT REPORT

SPONSOR Sánchez, M. DATE TYPED 2/3/05 HB \_\_\_\_\_

SHORT TITLE Increase Worthless Check Processing Fee Limit SB 232

ANALYST Medina

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	Indeterminate	Indeterminate	Recurring	District Attorney Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Partially conflicts with HB 514

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

First Judicial District Attorney  
Public Defender Department (PDD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 232 proposes increases to the limits on district attorney worthless check processing fees. Worthless check processing fees are assessed by district attorneys against persons convicted of or admitting guilt to violating Section 30-36-4 NMSA 1978, which makes it unlawful to issue in exchange for anything of value, with intent to defraud, any check, draft or order for payment of money upon any bank or other depository, knowing at the time of the issuing that the offender has insufficient funds in the bank or depository for the payment of such a check.

The following table, provided by the First Judicial District Attorney illustrates the current fee structure and the proposed fee structure.

<b>Current Fees</b>	<b>Proposed Fees</b>
\$5 if the amount of the worthless check is < \$25	\$10 if the amount of the worthless check is \$100 or less
\$10 if the amount is \$25 but < \$100	\$50 if the amount is > \$100 but not more than \$500
\$30 if the amount is \$100 or more but <\$300	\$75 if the amount is > \$500 but not more than \$1,000
\$50 if the amount is \$300 or more but <\$500	\$100 if the amount is > \$1,000
\$75 if the amount is \$500 or more	

Significant Issues

The worthless check fees collected by the district attorneys are remitted to the district attorney fund from which the Administrative Office of the District Attorneys (AODA) budgets a portion for its operating budget for expenditure on staff training for all district attorney offices. In FY04 the district attorneys collected and remitted \$291.6 to AODA for this purpose.

According to the Public Defender Department, indigent clients of the Department will not be able to pay the fees. Inability to pay a fee should not be the criterion for waiving prosecution for people who acknowledge violating the worthless check statute.

**FISCAL IMPLICATIONS**

Increases to the fee structure will increase the amount of revenue deposited in the district attorney fund and the Legislature will need to adjust the revenues budgeted from this fund, which would likely entail budgeting more funding for AODA to administer training to district attorney staff.

**CONFLICT**

HB 514: According to the First Judicial District Attorney, while this bill would increase revenue for AODA, if the felony limit amount is changed (HB 514), this could have a significant negative impact on the amount of revenue collected and the ability of AODA to carry out its statutory obligations including the training of district attorney staff.

**ALTERNATIVES**

The Public Defender Department recommends an amendment that specifies that inability to pay a fee will not affect whether prosecution is waived for those who acknowledge violation of the worthless check statute.

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

The district attorneys will continue to collect worthless check fees based on the current fee structure.

DXM/yr