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FISCAL IMPACT REPORT

ORIGINAL DATE 1/16/15
 LAST UPDATED 2/13/15 HB 89

SPONSOR Herrell

SHORT TITLE Court Language Access Fund SB _____

ANALYST A. Sánchez

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|---------|---------------------------------|----------------------|
| FY15 | FY16 | FY17 | | |
| | | \$150.0 | Recurring | Other State Funds |

(Parenthesis () Indicate Revenue Decreases)

Relates to Senate Bill 106
 Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Department of Finance and Administration (DFA)

SUMMARY

House Bill 89 creates the Language Access Fund (LAF) a nonreverting fund to be administered by the Administrative Office of the Courts (AOC). The LAF would be funded through appropriations as well as fees and other revenue collected by the New Mexico Center for Language Access. Expenditures of appropriated and budgeted funds will provide court interpreters, operate and staff the New Mexico Center for Language Access, fund language access services at the AOC, and fund language training and other activities required to meet constitutional and statutory requirements to provide language access in courts and court-related activities. Separating the language access from jury by witness and creating a separate fund will allow for cleaner reporting of each activity and fund reconciliation.

HB 89 also amends the existing language in section 34-9-1, NMSA 1978 to remove “court interpreters” from activities paid for by the Jury and Witness Fund.

FISCAL IMPLICATIONS

According to AOC, in FY15, and in many preceding years, payments to provide court interpreters and language access services required by state and federal constitutions as well as

statutes have been made from the Jury and Witness Fund. Today about half of the expenditures from the Jury and Witness Fund pay for court interpreters and related language access services, at a cost that exceeds \$4 million annually. The AOC budget request for FY16 adequately funds projected payments for jurors as well as interpreters. No separate appropriation for the LAF is required in HB 89.

This bill creates a new fund, which in essence provides for continuing appropriations, which currently go into the Jury and Witness Fund. Although the LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities, in this case it allows for cleaner accounting.

The AOC in its response to SB 106 indicated that it could generate additional funding of about \$150 thousand by charging for training for interpreters and that the amount collected would be used to pay for the training.

According to DFA, creating a fund separate from the jury and witness fund will reduce the appropriations to the jury and witness fund.

SIGNIFICANT ISSUES

According to the AOC, HB 89 is a legislative initiative approved by the Supreme Court in the Unified Budget. Although both jury and language access activities are basic court functions required by constitutional and statutory provisions, they are very different. In the past, language access was a small part of the main task of the Jury and Witness Fund, which was to pay for jurors. Over time, language access has grown with statutes and cases that require adequate services to provide language access to litigants with limited English proficiency. This growth demands greater active management.

The Department of Justice has entered into litigation and/or agreements with more than two dozen states to compel broader language access consistent with constitutional and statutory mandates. New Mexico's language access program targets full compliance with the law, including certifying qualified interpreters to provide access to justice in courts, the New Mexico Center Language Access to provide high-quality training for interpreters and court staff, statewide and local language access plans, and careful management of funds appropriated to pay for language access activities.

The Jury and Witness fund has had insufficient resources to pay for required juror and interpreter services. A cycle of supplemental funding and Board of Finance grants has made it possible to meet required payments. As currently constituted, funding for these very different activities is grouped together in the Jury and Witness Fund. HB 89 divides the two distinct activities. Already jury activities and language access activities are managed by different personnel at the AOC although the activities share a common appropriation. With dedicated funding to each activity, if funding falls short AOC will be required to explain why the activity could not be accomplished within the given appropriation. Closer scrutiny of AOC's management of funds for jury and language access will be possible with the activities separately funded in the Jury and Witness Fund and the LAF.

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According to DFA, separating language access from the jury and witness fund will add to the workload of the AOC budget and finance staff.

ADMINISTRATIVE IMPLICATIONS

According to the AOC, its Fiscal Service Division will establish and monitor activity in the LAF. The LAF will be subject to the auditing attention given to other funds administered by the AOC.

RELATIONSHIP

House Bill 89 relates to Senate Bill 106, Allow AOC Director to Receive Funds and the General Appropriation Act.

ABS/bb