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HOUSE BILL 665

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

LUCIANO "LUCKY" VARELA

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO COURT FEES; INCREASING CERTAIN COURT FEES FOR  
DEPOSIT IN THE COURT AUTOMATION FUND; AUTHORIZING THE NEW MEXICO  
FINANCE AUTHORITY TO ISSUE BONDS FOR COURT AUTOMATION SYSTEMS;  
MAKING AN APPROPRIATION; AMENDING AND ENACTING CERTAIN SECTIONS  
OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 34-2-5 NMSA 1978 (being Laws 1933,  
Chapter 81, Section 1, as amended) is amended to read:

"34-2-5. FEES--COLLECTION BY SUPREME COURT CLERK. --The  
clerk of the supreme court shall collect the following fees:

A. in all cases docketed in the court, except those  
in which statutory exemption exists and those in which the court  
on showing of poverty may, by order, waive the fee, [~~one hundred  
dollars (\$100)~~] one hundred twenty-five dollars (\$125), twenty-

Underscored material = new  
[bracketed material] = delete

1 five dollars (\$25.00) of which shall be deposited in the court  
2 automation fund; provided that in cases in which a skeleton  
3 transcript may be filed for the purpose of a motion to docket  
4 and affirm, the fee shall be twenty dollars (\$20.00), ten  
5 dollars (\$10.00) of which shall be deposited in the court  
6 automation fund;

7 B. for one copy of files or a record, ten cents  
8 (\$.10) per folio and for additional copies ordered at the same  
9 time five cents (\$.05) per folio;

10 C. for comparing copies of files or records tendered  
11 to him, five cents (\$.05) per folio; and

12 D. for each certificate, one dollar (\$1.00)."

13 Section 2. Section 34-5-6 NMSA 1978 (being Laws 1966,  
14 Chapter 28, Section 6, as amended) is amended to read:

15 "34-5-6. COURT OF APPEALS--FEES AND COSTS.--

16 A. The clerk of the court of appeals shall collect  
17 the following fees:

18 docket fee, twenty-five dollars (\$25.00) of which shall be  
19 deposited in the court automation fund,

20 ..... [~~\$100.00~~] \$125.00

21 docket fee for cases in which a skeleton transcript is  
22 filed for purpose of a motion to docket and affirm,  
23 ten dollars (\$10.00) of which shall be deposited in  
24 the court automation fund,..... [~~\$10.00~~] \$ 20.00

25 single copy of records, per typewritten folio ..... .10

Underscored material = new  
[bracketed material] = delete

1 each additional copy of records ordered at same time, per  
2 typewritten folio ..... .05  
3 copies of records reproduced by photographic process, per  
4 page ..... .10  
5 comparing copies of records tendered to him, per  
6 folio ..... .05  
7 each certificate..... 1.00.

8 B. No fees or costs shall be required in proceedings  
9 in forma pauperis, from state officers acting in their official  
10 capacity or in any other case where a statutory exemption  
11 exists.

12 C. Except as otherwise specifically provided by law,  
13 the clerk of the court of appeals shall pay all fees and costs  
14 to the state treasurer for credit to the state general fund."

15 Section 3. Section 34-6-40 NMSA 1978 (being Laws 1968,  
16 Chapter 69, Section 42, as amended) is amended to read:

17 "34-6-40. FINANCE-- FEES. --

18 A. District court clerks shall collect in civil  
19 matters docketing any cause, whether original or reopened or by  
20 appeal or transfer from any inferior court, a fee of [~~seventy-~~  
21 ~~two dollars (\$72.00)] eighty-two dollars (\$82.00), ten dollars  
22 (\$10.00) of which shall be deposited in the court automation  
23 fund.~~

24 B. No fees or costs shall be taxed against the  
25 state, its political subdivisions or the nonprofit corporations

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1 authorized to be formed under the Educational Assistance Act.

2 C. Except as otherwise specifically provided by law,  
3 docket fees shall be paid into the general fund."

4 Section 4. Section 34-9-10 NMSA 1978 (being Laws 1987,  
5 Chapter 32, Section 2, as amended) is amended to read:

6 "34-9-10. COURT AUTOMATION FUND CREATED--ADMINISTRATION--  
7 DISTRIBUTION.--

8 A. There is created in the state treasury a "court  
9 automation fund" to be administered by the administrative office  
10 of the courts.

11 B. All balances in the court automation fund are  
12 appropriated and may be expended [~~only upon appropriation by the~~  
13 ~~legislature to the administrative office of the courts~~] for  
14 service contracts related to court automation systems or for the  
15 purchase, lease-purchase, financing, refinancing and maintenance  
16 of court automation systems in the [~~magistrate and district~~  
17 ~~courts~~] judiciary. The New Mexico finance authority may pledge  
18 irrevocably all distributions to the authority from the court  
19 automation fund for the payment of the principal, interest and  
20 any other expenses or obligations related to the bonds issued by  
21 the authority for financing court automation systems. Any  
22 balance remaining, after all principal, interest and any other  
23 expenses or obligations related to the bonds in each fiscal year  
24 are fully paid, may be appropriated by the legislature to the  
25 administrative office of the courts.

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[bracketed material] = delete

1 C. Payments from the court automation fund shall be  
2 made upon vouchers issued and signed by the director of the  
3 administrative office of the courts upon warrants drawn by the  
4 secretary of finance and administration. Any purchase or  
5 lease-purchase agreement entered into pursuant to this section  
6 shall be entered into in accordance with the Procurement Code."

7 Section 5. Section 35-6-1 NMSA 1978 (being Laws 1968,  
8 Chapter 62, Section 92, as amended) is amended to read:

9 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF  
10 "CONVICTED".--

11 A. ~~[Each]~~ Magistrate judges, including metropolitan  
12 court judges, shall collect the following costs:

13 Docket fee, criminal actions under Section 29-5-1 NMSA  
14 1978..... \$ 1.00

15 Docket fee, to be collected prior to docketing any other  
16 criminal action, except as provided in Subsection B  
17 of Section 35-6-3 NMSA 1978 ..... 20.00

18 Docket fee, ten dollars (\$10.00) of which shall be  
19 deposited in the court automation fund, to be  
20 collected prior to docketing any civil action, except  
21 as provided in Subsection A of Section 35-6-3 NMSA  
22 1978 ..... [~~37.00~~] 47.00

23 Jury fee, to be collected from the party demanding trial by  
24 jury in any civil action at the time the demand is  
25 filed or made..... 25.00

Underscored material = new  
[bracketed material] = delete

1 Copying fee, for making and certifying copies of any  
2 records in the court, for each page copied by  
3 photographic process ..... .50  
4 Copying fee, for computer-generated or electronically  
5 transferred copies, per page..... 1.00.

6 Proceeds from this copying fee shall be transferred to the  
7 administrative office of the courts for deposit in the court  
8 automation fund. Except as otherwise specifically provided  
9 by law, docket fees shall be paid into the general fund.

10 B. Except as otherwise provided by law, no other  
11 costs or fees shall be charged or collected in the magistrate  
12 or metropolitan court.

13 C. The magistrate or metropolitan court may grant  
14 free process to any party in any civil proceeding or special  
15 statutory proceeding upon a proper showing of indigency. The  
16 magistrate or metropolitan court may deny free process if it  
17 finds that the complaint on its face does not state a cause of  
18 action.

19 D. As used in this subsection, "convicted" means  
20 the defendant has been found guilty of a criminal charge by the  
21 magistrate or metropolitan judge, either after trial, a plea of  
22 guilty or a plea of nolo contendere. [Each] Magistrate judges,  
23 including metropolitan court judges, shall collect the  
24 following costs:

25 (1) corrections fee, to be collected upon

Underscored material = new  
[bracketed material] = delete

1 conviction from persons convicted of violating any provision of  
2 the Motor Vehicle Code involving the operation of a motor  
3 vehicle, convicted of a crime constituting a misdemeanor or a  
4 petty misdemeanor or convicted of violating any ordinance that  
5 may be enforced by the imposition of a term of  
6 imprisonment..... \$10.00;

7 (2) court automation fee, to be collected  
8 upon conviction from persons convicted of violating any  
9 provision of the Motor Vehicle Code involving the operation of  
10 a motor vehicle, convicted of a crime constituting a  
11 misdemeanor or a petty misdemeanor or convicted of violating  
12 any ordinance that may be enforced by the imposition of a term  
13 of imprisonment ..... [~~3.00~~] 10.00;

14 (3) traffic safety fee, to be collected upon  
15 conviction from persons convicted of violating any provision of  
16 the Motor Vehicle Code involving the operation of a motor  
17 vehicle ..... 3.00;

18 and  
19 (4) judicial education fee, to be collected  
20 upon conviction from persons convicted of operating a motor  
21 vehicle in violation of the Motor Vehicle Code, convicted of a  
22 crime constituting a misdemeanor or a petty misdemeanor or  
23 convicted of violating any ordinance punishable by a term of  
24 imprisonment..... 1.00.

25 E. Metropolitan court judges shall collect as costs

Underscored material = new  
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1 a mediation fee not to exceed five dollars (\$5.00) for the  
2 docketing of small claims and criminal actions specified by  
3 metropolitan court rule. Proceeds of the mediation fee shall  
4 be deposited into the metropolitan court mediation fund."

5 Section 6. Section 35-13-2 NMSA 1978 (being Laws 1975,  
6 Chapter 242, Section 10, as amended) is amended to read:

7 "35-13-2. APPEALS--DISTRICT COURT PROCEEDINGS--DOCKET  
8 FEES--JUDGMENT.--

9 A. Appeals from the magistrate courts shall be  
10 tried de novo in the district court.

11 B. The district court docket fee in any criminal  
12 appeal is [~~twenty-five dollars (\$25.00)~~] thirty-five dollars  
13 (\$35.00), ten dollars (\$10.00) of which shall be deposited in  
14 the court automation fund.

15 C. If the judgment of the magistrate court in a  
16 criminal action is affirmed or rendered against the appellant  
17 on appeal or if the appellant fails to appear at the time fixed  
18 for hearing in the district court, the district court shall  
19 enter judgment imposing the same, a greater or a lesser penalty  
20 as that imposed in the magistrate court in the action."

21 Section 7. Section 35-15-7 NMSA 1978 (being Laws 1969,  
22 Chapter 35, Section 2) is amended to read:

23 "35-15-7. APPEALS--NOTICE OF APPEALS.--

24 A. An appeal from the municipal court is taken by  
25 filing with the clerk of the district court a notice of appeal.



Underscored material = new  
[bracketed material] = delete

1 When the defendant takes an appeal, the notice of appeal shall  
2 be accompanied by a bond to the municipality in the sum, and  
3 with conditions, fixed by the municipal judge as sufficient to  
4 secure the appearance of the defendant, and the judgment and  
5 sentence of the municipal court.

6 B. The clerk of the district court shall docket the  
7 appeal on the civil docket upon payment of a docket fee of  
8 twenty dollars (\$20.00), ten dollars (\$10.00) of which shall be  
9 deposited in the court automation fund, and shall transmit a  
10 copy of the notice of appeal to the municipal court from which  
11 the action is appealed and to the municipal attorney.

12 C. Within ten days after receipt of the notice of  
13 appeal from the clerk of the district court under Subsection B  
14 of this section, the municipal judge shall file with the clerk  
15 of the district court a transcript of all municipal court  
16 docket entries in the action, together with all pleadings and  
17 other documents relating to the action. After the transcript  
18 has been filed, the action may be called for trial in the  
19 district court as in other civil actions. The appeal shall be  
20 governed by the Rules of Civil Procedure for the District  
21 Courts, except that the [~~municipal-ty~~] municipality has the  
22 burden of proving violation of an ordinance beyond a reasonable  
23 doubt.

24 D. The docketing of an appeal operates as a  
25 supersedeas and stay of execution upon the judgment of the

Underscored material = new  
[bracketed material] = delete

1 municipal court in the action until final disposition of the  
2 appeal. "

3 Section 8. Section 66-8-116.3 NMSA 1978 (being Laws  
4 1989, Chapter 320, Section 5, as amended) is amended to read:

5 "66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS--ADDITIONAL  
6 FEES.--In addition to the penalty assessment established for  
7 each penalty assessment misdemeanor, there shall be assessed:

8 A. ten dollars (\$10.00) to help defray the costs of  
9 local government corrections;

10 B. a court automation fee of [~~three dollars~~  
11 ~~(\$3.00)] ten dollars (\$10.00);~~

12 C. a traffic safety fee of three dollars (\$3.00),  
13 which shall be credited to the traffic safety education and  
14 enforcement fund; and

15 D. a judicial education fee of one dollar (\$1.00),  
16 which shall be credited to the judicial education fund. "

17 Section 9. [NEW MATERIAL] NEW MEXICO FINANCE AUTHORITY  
18 REVENUE BONDS--PURPOSE--APPROPRIATION. --

19 A. The New Mexico finance authority may issue and  
20 sell revenue bonds in compliance with the New Mexico Finance  
21 Authority Act in installments or at one time in an amount not  
22 exceeding eight million five hundred thousand dollars  
23 (\$8,500,000) for the purpose of financing court automation  
24 systems, including acquisition, development and installation of  
25 computer hardware and software, for the administrative office

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1 of the courts.

2 B. The New Mexico finance authority may issue and  
3 sell revenue bonds authorized by this section when the director  
4 of the administrative office of the courts certifies the need  
5 for issuance of the bonds. The net proceeds from the sale of  
6 the bonds are appropriated to the administrative office of the  
7 courts for the purposes described in Subsection A of this  
8 section.

9 C. Except for money appropriated by the legislature  
10 from the court automation fund to the administrative office of  
11 the courts in fiscal year 1997, the money in the court  
12 automation fund shall be distributed to the New Mexico finance  
13 authority to be pledged irrevocably for the payment of the  
14 principal, interest and other expenses or obligations related  
15 to the bonds.

16 D. The money in the court automation fund shall be  
17 distributed monthly to the New Mexico finance authority and  
18 deposited in a special bond fund or account of the authority.  
19 At the end of each fiscal year, any money remaining in the  
20 special bond fund or account from distributions made to the  
21 authority during that fiscal year, after all principal,  
22 interest and any other expenses or obligations related to the  
23 bonds in that fiscal year are fully paid, may be appropriated  
24 by the legislature to the administrative office of the courts  
25 for service contracts related to court automation systems or

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Underscored material = new  
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1 for the purchase, lease-purchase, financing, refinancing and  
2 maintenance of court automation systems in the judiciary. Upon  
3 payment of all principal, interest and any other expenses or  
4 obligations related to the bonds, the authority shall certify  
5 to the administrative office of the courts that all obligations  
6 for the bonds issued pursuant to this section have been fully  
7 discharged and direct the administrative office of the courts  
8 to cease distributing money from the court automation fund to  
9 the authority.

10 E. Any law authorizing the collection of fees for  
11 the court automation fund or distribution of the money in the  
12 court automation fund to the New Mexico finance authority shall  
13 not be amended, repealed or otherwise directly or indirectly  
14 modified so as to impair any outstanding revenue bonds that may  
15 be secured by a pledge of the distributions of the court  
16 automation fund, unless the revenue bonds have been discharged  
17 in full or provisions have been made for a full discharge.

# State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 5, 1996

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been  
referred

HOUSE BILL 665

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to  
the APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

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Cisco McSorley, Chairman

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Foy, Luna, McSorley, Perls

Absent: None

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Underscored material = new  
[bracketed material] = delete

# State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 7, 1996

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
whom has been referred

HOUSE BILL 665

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

---

Max Coll, Chairman

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Abeyta, Bird, Buffett, Casey, Gentry, Light, Picraux

Absent: None

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Underscored material = new  
[bracketed material] = delete



FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 12, 1996

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 665

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
FINANCE COMMITTEE.

Respectfully submitted,

---

Jani ce D. Paster, Chair man

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FORTY- SECOND LEGISLATURE  
SECOND SESSION, 1996

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Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: None

Absent: Carraro, Sanchez, Tsosie

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 14, 1996

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

HOUSE BILL 665

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

Ben D. Altamirano, Chairman

Adopted \_\_\_\_\_ Not

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FORTY- SECOND LEGISLATURE  
SECOND SESSION, 1996

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Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Donisthorpe, Duran, Ingle, Kidd, Kysar

Absent: None

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FORTY- SECOND LEGISLATURE  
SECOND SESSION

February 14, 1996

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to HOUSE BILL 665

Amendment sponsored by Senator

1. On page 1, line 12, after the semicolon insert:

"ESTABLISHING AN ANSWER FEE FOR CIVIL ACTIONS IN TRIAL COURTS;  
GRANTING FREE PROCESS TO ANSWERING PARTIES IN CIVIL ACTIONS UPON  
A SHOWING OF INDIGENCY;".

2. On page 3, between lines 23 and 24, insert the following  
new subsection:

"B. District court clerks shall collect an answer fee  
of twenty-five dollars (\$25.00) from a party that answers a  
complaint or a third party complaint. The district court may  
waive the answer fee for a party in a civil action upon a proper  
showing of indigency. The proceeds from the answer fee shall be  
deposited in the civil legal services fund.".

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SECOND SESSION

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3. Reletter the succeeding subsections accordingly.

4. On page 5, between lines 22 and 23, insert the following:

"Answer fee, to be collected from a party that answers a complaint or a third party complaint..... 25.00  
The proceeds of the answer fee shall be deposited in the civil legal services fund."

\_\_\_\_\_

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

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FORTY-SECOND LEGISLATURE  
SECOND SESSION

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Date \_\_\_\_\_

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