

HB 139



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Making New Mexico safe for all children & families

## Bill Analysis 2023 Regular Session

**SPONSOR:** Representative Micaela Lara Cadena

**SHORT TITLE:** Fee Elimination

**SYNOPSIS OF BILL:** HB 139 adopts national best practices to rein in court costs and government expenses related to court-ordered fee collection. It eliminates post-adjudication fees for all traffic offenses and criminal offenses. It also eliminates the \$100 bench warrant fee associated with the issuance of a bench warrant. The bill does not affect ‘fines’ (handed down as part of a criminal sentence). It also does not limit a judge’s discretion to issue a bench warrant or impose conditions of a conviction such as probation, jail, or other punitive and rehabilitative activities.

**STRENGTHS:** HB 139 will improve public health and safety by ending the assessment of compounding court debt on those who can least afford it, as well as by reducing the instances of incarceration due to failure to pay. Research suggests that rather than being a tool to hold people accountable, fines and fees are stripping wealth from economically vulnerable communities.<sup>1</sup> In New Mexico, fees can quickly add up to hundreds of dollars—a significant financial burden for many people in our state. Court fees tend to disproportionately impact women who are more likely to help family, friends, and partners pay their debt.<sup>2</sup> Further, in a recent statewide survey on court debt, 78% of respondents said they had to borrow money from a relative/friend to pay their fines and fees.<sup>3</sup>

HB 139 will end the inefficient use of government funds to collect fee revenue. New Mexico counties spend 41 cents to collect a single dollar of fine and fee revenue. That’s 115 times more than the IRS spends to collect a dollar of income tax. New Mexico’s largest county — Bernalillo — spends \$1.17 for every dollar of fines and fees collected-meaning the county is losing money on collection.<sup>4</sup>

Moreover, the bill will end the use of jail credits in lieu of fee payment—that is, forcing individuals to spend time in jail in order to “pay off” their court debt. It costs approximately \$95 per day to house someone in a NM county jail. That’s \$665 per week, \$2,660 per month. HB 139 will allow courts to close cases solely related to lingering debt—thus reducing court dockets. Additionally, it will maximize efficiency within NM’s criminal legal system and ensure that the state is not spending more money on collection that it collects.

**WEAKNESSES:** HB 139 does not eliminate all municipal court post adjudication fees which are determined and imposed by individual municipalities. The bill also does not eliminate probation or parole fees (or the extension of probation or parole cases due to failure to pay) as recommended by AOC Director Arthur Pepin.<sup>5</sup> Finally, the bill does not discharge any present court debt; individuals who have been assessed court fees prior to the Fee Elimination Bill will still be compelled to pay, unless the court waives their outstanding fees.

[www.nmsafe.org](http://www.nmsafe.org)

<sup>1</sup> Walker, E., & Nicholas, A. *It's Time to Reform Washington's Harmful System of Fines and Fees*. Washington State Budget and Policy Center. Retrieved December 28, 2022, from <https://budgetandpolicy.org/resources-tools/2022/01/2022-LFO-Brief.pdf>.

<sup>2</sup> The Russell Sage Foundation. *Monetary sanctions and Symbiotic Harms*. <https://www.rsfjournal.org/content/8/2/98>

<sup>3</sup> Fines and Fees Justice Center. (January, 2023). *The Impact of New Mexico's Fines and Fees: Interim Survey Results*.

<sup>4</sup> Brennan Center for Justice (2019) “The Steep Costs of Criminal Justice Fees and Fines: A Fiscal Analysis of Three States and Ten Counties,” available at <https://www.brennancenter.org/our-work/research-reports/stEEP-costs-criminal-justice-fees-and-fines>.

<sup>5</sup> Pepin, A. (2016). *The End of Debtors' Prisons: Effective Court Policies for Successful Compliance with Legal Financial Obligations*. Conference of State Court Administrators. cosca.ncsc.org/\_data/assets/pdf\_file/0014/26330/end-of-debtors-prisons-2016.pdf

<b>Safer</b>	<b>Apolitical</b>	<b>Fiscally-Responsible</b>	<b>Evidence Based</b>	<b>Grade</b>
<p>HB 139 will prevent individuals from being jailed (or reduce jail stays) for their inability to pay fees—keeping inmates, jail staff, and New Mexicans at large safer. It will also prevent families from forgoing basic needs to pay court debt as well as <b>reduce recidivism associated with failure to pay.</b><sup>6</sup></p> <p>Further, the bill <b>will prevent New Mexico from using its limited public safety resources to chase uncollectable debts.</b> Resources devoted to collecting and enforcing fees could be better spent on efforts that actually improve public safety. Turning police into tax collectors destroys police community relationships.</p>	<p>Fee elimination is a popular reform that bipartisan stakeholders from across the political spectrum agree on. Legislative reform efforts are underway in numerous states — including Louisiana, New York, California, and Oklahoma — to eliminate assessments and surcharges.<sup>7</sup></p> <p><b>Dozens of states and localities in states both red and blue have enacted reforms to eliminate one or more fees.</b><sup>8</sup> In October, Delaware Gov. Carney signed legislation eliminating a wide range of fees, including probation and parole fees, public defense fees, and juvenile system fees.<sup>9</sup></p>	<p><b>Fees are an inefficient, expensive and unreliable source of government revenue.</b> Research demonstrates that “the burden of fees and fines falls largely on the poor, much like a regressive tax, and billions of dollars go unpaid each year”.<sup>10</sup> Some New Mexico counties are even <b>losing money in their effort to collect these uncollectible debts.</b></p> <p><b>Additionally, jailing people for debt is a huge cost to tax-payers, generates no revenue, and does nothing to improve public safety.</b> By eliminating fees, New Mexico will be closer to abolishing debtor’s prisons in the state and will end the inefficient use of government funds on jailing individuals for court debt.</p>	<p><b>HB 139 is modeled after national best practices on court fees</b> established by the American Bar Association, Arthur Pepin &amp; COSCA, the Brennan Center, the Fines and Fees Justice Center, the National Center for Access to Justice and other research entities that have recommended the elimination of court fees and the associated conflicts on interests.</p>	<b>A</b>

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<sup>6</sup> Fines and Fees Justice Center. (January, 2023). *The Impact of New Mexico’s Fines and Fees: Interim Survey Results.*

<sup>7</sup> Ferguson is happening in New York. Retrieved from <https://nopriceonjustice.org/> on January 30, 2023.

<sup>8</sup> End Justice Fees. *States and Localities that have Repealed Fees.* Retrieved on January 26, 2023 from <https://endjusticefees.org/reform/>

<sup>9</sup> Forbes. (October, 2022). *New Delaware law Ends Many Fines and Fees that Criminalize Poverty.* <https://www.forbes.com/sites/nicksibilla/2022/10/04/new-delaware-law-ends-many-fines-and-fees-that-criminalize-poverty/?sh=365c4f1057b1>

<sup>10</sup> Brennan Center for Justice (2019) “The Steep Costs of Criminal Justice Fees and Fines” available at <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.