

OFFICE OF THE
LEGISLATIVE
FISCAL
ANALYST

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MEMORANDUM FOR EXECUTIVE APPROPRIATIONS COMMITTEE

FROM: Spencer Pratt, Fiscal Manager
DATE: October 9, 2012
SUBJECT: Fines and Forfeitures as a Revenue Source

Item 62 of S.J.R. 3, the Master Study Resolution, requests looking at, “Prohibiting Funds from Fines and Forfeitures from going to the Governmental Entity Imposing the Fines.” The purpose is to study the prohibition of fines and forfeitures that fund the governmental entity that imposes the fine or forfeiture, or whether to require that fines and forfeitures go into a permanent fund, of which only the interest earnings may be used for the budget of the government agency that imposes the fines, so as to prohibit fines and forfeitures from becoming an essential budget item for those entities.

Current statute allows fines and forfeitures for violations of state statute and municipal ordinances. These fines are generally assessed by district courts or justice courts. Statutes determine where the revenue from these fines and forfeitures is deposited. Generally, revenue from violations to municipal ordinances is retained by the municipality. Revenue from violations to state statutes is deposited with the State Treasurer, but there are some specific violations where the Treasurer then allocates a portion of the revenue to a specific corresponding entity.

Attached please find two tables. Table 1 shows the state statute that authorizes fines and forfeitures and the disposition of the revenue from those fines. Table 2 provides a sampling of fines and forfeitures revenue going to cities that are county seats.

Fine and forfeiture revenue can constitute a significant portion of a city’s general revenue. A review of the 29 county seats’ FY 2011 financial reports filed with the State Auditor showed that approximately \$15.2 million was identified as revenue generated by fines and forfeitures. See <http://www.sao.state.ut.us/lgReports.html#>. Nine of the smaller towns did not itemize an amount associated with fines and forfeitures. This revenue source is an average of 3.6% of the county seats’ total general revenue, but ranges from 0.51% to 19.1% as is shown in Table 2.

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As the sample of cities and towns shows, revenue collected from fines and forfeitures is a small portion of the total general revenue for some, but a significant portion of others. Are the cities and towns dependent upon this revenue source for their general operations? In some cases, it would seem so, in others, it probably isn't. Is the ability to collect and retain fines and forfeitures encouraging municipalities to over-enforce statutes and ordinances? If this ability were to change, what would be the consequence for municipalities? If they could no longer retain part or all of these fines and forfeitures, would they cut expenditures, or how would the difference in revenue be made up?

The overall question of whether to prohibit revenue from fines and forfeitures from going to the entity imposing the fines is a policy question more than a budget question. On October 16 we will ask for your input on where to take this study from here.

Options:

1. Maintain status quo (leave disposition of fines and forfeitures as currently in place)
2. Refer this study to an interim or standing committee for further consideration
3. Ask LFA to study this item further for the Executive Appropriations Committee
4. Refer this study to an appropriations subcommittee for further consideration
5. Change statute to deposit all or part of fines and forfeitures into a permanent fund

Table 1. Disposition of Fines and Forfeitures

State Code	Agency	Type of Ordinance	Disposition of Fines and Forfeitures				Distribution
			District Court	Municipality	County Treasurer	State Treasurer	
10-3-716	Municipal Code	Municipal Ordinances		100%			
10-7-66	Municipal Code	Cities and Towns		100%			
53B-3-110	Higher Education	Enforcement of Regulations				100%	Credited to general operating fund of institution
		Enforcement of Regulations	50%			50%	Credited to general operating fund of institution
59-2-1315	Rev. and Taxation	Local Property Taxes			100%		
78A-5-110	District Court	1 State statute violation				100%	
		2 State statute violation constituting a misdemeanor				100%	
		2 County or municipal ordinance constituting a misdemeanor		50%		50%	
		3 Violations of Wildlife Resources				100%	85% to DWR, 15% to General Fund
		3 Violations of: Off-Highway Vehicles, State Boating Act				100%	85% to Div. of Parks and Recreations, 15% to GF
		4 Violation of Load limit				100%	B & C Roads
		5 2nd Violation for littering or load limit				100%	60% Transportation Fund, 40% split between state and county, if applicable
		5 2nd violation for commercial vehicle operation				100%	50% Transportation Fund, 50% split between state and county, if applicable
		6 All others not specified				100%	
78A-7-120	Justice Court	1 All unless specified below		100%			50% to local government responsible for the court, 50% to local government which prosecutes
		2 Violations of Wildlife Resources		100%			85% to DWR, 15% to municipal general fund
		2 Violations of: Off-Highway Vehicles, State Boating Act		100%			85% to Div. of Parks and Recreations, 15% to municipal general fund
		4 Violation of Load limit				100%	B & C Roads
		6 2nd Violation for littering or load limit				100%	60% Transportation Fund, 20% to local government responsible for the court, 20% to local government which prosecutes
		6 2nd violation for commercial vehicle operation				100%	50% Transportation Fund, 25% to local government responsible for the court, 25% to local government which prosecutes

Table 2. Sampling of Fines and Forfeitures Revenue

<u>County</u>	<u>County Seat</u>	FY 2011		
		<u>F &F Revenue</u>	<u>Total General Revenue</u>	<u>F & F Revenue as a % of Total</u>
Beaver	Beaver	NR	\$1,847,535	
Box Elder	Brigham City	\$107,742	\$9,605,305	1.12%
Cache	Logan	\$912,313	\$27,592,113	3.31%
Carbon	Price	\$80,081	\$5,705,121	1.40%
Daggett	Manila	NR	\$142,566	
Davis	Farmington	\$259,093	\$6,934,878	3.74%
Duchesne	Duchesne	NR	\$964,428	
Emery	Castle Dale	NR	\$663,259	
Garfield	Panguitch	\$25,784	\$1,260,214	2.05%
Grand	Moab	\$35,105	\$6,825,809	0.51%
Iron	Parowan	\$146,054	\$1,670,555	8.74%
Juab	Nephi	\$115,790	\$2,938,803	3.94%
Kane	Kanab	\$72,590	\$3,387,368	2.14%
Millard	Fillmore	\$339,855	\$1,779,135	19.10%
Morgan	Morgan	\$50,769	\$1,417,506	3.58%
Piute	Junction	NR	\$221,985	
Rich	Randolph	NR	\$169,957	
Salt Lake	Salt Lake City	\$6,006,047	\$182,820,524	3.29%
San Juan	Monticello	\$79,607	\$1,591,098	5.00%
Sanpete	Manti	\$35,645	\$1,434,292	2.49%
Sevier	Richfield	NR	\$5,461,011	
Summitt	Coalville	NR	\$585,025	
Tooele	Tooele	\$92,974	\$13,131,673	0.71%
Uintah	Vernal	\$465,246	\$8,208,043	5.67%
Utah	Provo	\$2,138,426	\$40,330,795	5.30%
Wasatch	Heber City	\$259,181	\$5,068,624	5.11%
Washington	St. George	\$1,081,108	\$41,864,643	2.58%
Wayne	Loa	NR	\$172,486	
Weber	Ogden	\$2,906,270	\$54,250,691	5.36%
	Total	\$15,209,680	\$428,045,442	3.55%