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FISCAL IMPACT REPORT

SPONSOR: Martinez DATE TYPED: 02/21/01 HB 669
 SHORT TITLE: Adult Offender Supervision Interstate Compact SB _____
 ANALYST: Trujillo

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			\$18.0 See Narrative	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 Corrections Department (CD)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

The purpose of HB669 is to revise the Interstate Compact for Adult Offender Supervision. The present compact has been in existence since 1937, and is repealed by the bill.

According to CD, the most salient points of the revised Compact are:

The establishment of an independent compact operating authority to administer ongoing compact activity, including a provision for staff support. Its activities would include:

- c Constituting a national governing Commission, consisting of policymaking representatives from all member states, which meets annually to elect the compact operating authority members, and to attend to general business and rule making procedures.
- c Rule making authority and the provision for significant sanctions to support essential compact operations.
- c Mandatory funding mechanisms sufficient to support essential compact operations (staffing, data collection, training/education, etc.).
- c Compelling collection of standard information.

- c Members of the Commission will be appointed by resident members of a state council for interstate adult offender supervision for each state. The Commission would include individuals who are not commissioners but members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. These non-commissioner members shall be ex-officio, non-voting members.

The Compact also mandates the formation of a State Council, an appointed group which will oversee the interests of all three branches of government in regards to the Compact.

- c The state will determine the structure, composition and budget of the State Council.
- c State Council membership will consist of at least one representative from the legislature, the executive, and judicial branches of government as well as one representative from victims groups and the Compact Administrator.
- c Each state will determine the qualifications of the Compact Administrator who shall be appointed by the State Council, or by the governor with the consent of the legislative and judiciary.
- c State dues in support of the National Commission are based on a formula developed by the state within the National Commission. At this time, the projected assessment for the State of New Mexico, as developed by a national working group of corrections compact administrators, has been set at \$18,000. This could increase once the Commission forms and establishes its budgetary needs.

Other features of the Compact include:

- c Rules and bylaws for the National Commission shall be developed and passed by the Commission and shall have the effect of law upon states. However, should a majority of states reject a rule, it will have no further force and effect in any Compacting State. Existing rules and bylaws under the current compact will remain in effect during the first year until the Commission promulgates rules and bylaws which supercede the previous rules.
- c The National Commission will have an Executive Committee, composed of Compact Administrators from member states.
- c The compact mandates the creation of a National Database, utilizing current communications technology that will allow state to share critical offender information.
- c Provisions of the compact can be enforced by the Commission through judicial action initiated in the United States District Court for the District of Columbia.

The Compact would take effect on July 1, 2001 if passed by 35 states or upon passage by the 35th state. The state can withdraw from the Compact by enacting a statute specifically repealing the statute that enacted the Compact into law.

Significant Issues

According to AOC, presently, there are 4 million people on probation or parole in the US with more than 250,000 offenders crossing state lines annually. Offenders who travel from state to state are currently overseen by about 3,285 different local parole and probation offices, which operate within 869 different agencies. For more information on the compact see:

<http://www.statesnews.org/clip/policy/isc.htm>

CD reports the most significant issues for the department are:

- c At this time, there is no effective way for CD to monitor probationers or parolees sent from other states into New Mexico. Unless the sending state notifies CD, probationers and parolees from the other states are essentially unsupervised while residing in New Mexico. HB669 eliminates this problem and therefore would enhance public safety. States participating in the Compact will have uniform rules and regulations governing the sending of their probationers and parolees out of state. The net result will be better supervision coordination and information sharing between states concerning probationers and parolees who are sent from one state to another.
- c The new compact could have the effect of the number of out-of-state probationers and parolees CD must supervise, thereby increasing caseloads and perhaps the need for additional F.T.E.
- c HB669 is unclear concerning who appoints the state Compact Administrator.
- c If the State Council appoints the Compact Administrator, it could assume rule making authority; this could have the effect of removing the ability of CD to make rules and regulations concerning the administration of probation and parole.
- c There is no appropriation for the dues to be assessed by the Commission, nor is there any appropriation for the administration of the State Council.
- c There is a question of who will pay for any fines, fees and costs which may be imposed by the Commission in an action to enforce its rules or regulations. Will it come from the general fund? Will Risk Management defend these actions? Likewise, there is also a question of who will be responsible for judgments against the state in lawsuits brought by the Commission for violations of its rules.

PERFORMANCE IMPLICATIONS

CD reports the Compact will put a greater performance burden on the Probation and Parole Division of the department in terms of participation in the Compact.

FISCAL IMPLICATIONS

HB669 does not include an appropriation to fund the functions of the State Council. Moreover, there is no appropriation to CD to conduct the necessary training and education mandated by the Compact. There is no appropriation for the \$18,000 to pay state dues to the Compact Commission. There could be a long-term impact on the State's treasury since the Commission can sue the state for violations of the Compact.

CD indicates there will also be an increase in costs if the new compact results in supervision of more out-of-state probationers and parolees.

AOC reports once the compact is adopted by 35 states there will be a cost to each state. A cost analysis estimate on New Mexico's contribution to the interstate commission from the Council of State Governments is projected at \$18,000 a year if all fifty states, the five territories and the District of Columbia join the compact. The estimated cost would increase if only thirty-five states join. See web link. The cost to the judiciary is indeterminate. There could be a cost related to the issue of data-sharing and information systems, and travel and per diem of judicial state commission members.

ADMINISTRATIVE IMPLICATIONS

According to CD, there would be an increased administrative burden upon CD in terms of administering the Compact, attending State Council and National Commission meetings. Additional FTE may be needed for training and education provisions of the compact, as well as training CD staff concerning the provisions, and prospective rules and regulations promulgated by the Commission.

CD indicates if the new compact result in CD being responsible for supervising many more out-of-state probationers and parolees there will soon be a need to increase the number of F.T.E. in terms of probation and parole officers.

AOC reports Judges will need training on the compacts.

TECHNICAL ISSUES

CD suggest a change article IV to allow the Governor to appoint the Compact Administrator/National Commissioner. Also, allow the Governor to execute the Compact on behalf of the state.

OTHER SUBSTANTIVE ISSUES

CD reports that without participation New Mexico would be unable to send its probationers or parolees to other states that are signatories of this Compact. Also, there would not be a uniform system for tracking all out of state probationers and parolees who settle in New Mexico.

LAT/njw