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FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/10

SPONSOR Martinez, R.C. LAST UPDATED _____ HB _____

SHORT TITLE Study County Jail Overcrowding SJM 39

ANALYST Escudero

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Joint Memorial 42

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Joint Memorial (SJM 39) requests the interim legislative committee that studies corrections issues, in conjunction with the NM association of counties and other criminal justice stakeholders, to study current law relating to jail operations and report its findings to make recommendations regarding the reduction of jail overcrowding prior to the next legislative session.

FISCAL IMPLICATIONS

NMCD states, indeterminate to NMCD. If the recommendations lead to changes in the current law to send more county jail offenders to NMCD or to make NMCD financially responsible for more county jail offenders, then the memorial would have a moderate to substantial negative fiscal impact on NMCD. If the recommendations result in changes that do not send more county jail offenders to NMCD or make NMCD financially responsible for more county jail offenders, then the joint memorial will have no fiscal impact on NMCD.

DFA states, Tony Ortiz, with the New Mexico Sentencing Commission (NMSC), is familiar with Senate Joint Memorial 39 (SJM 39) and has no problem with it. Mr. Ortiz did compare this memorial to a similar but smaller study of the county jail/detention reimbursement program. He noted it took a \$30,000 appropriation to complete a county jail/detention reimbursement program study by the NMSC. This may be an issue with SJM 39 since this memorial has no appropriation.

There are no fiscal implications for the DFA.

SIGNIFICANT ISSUES

NMCD indicates as follows:

Certain counties would like to make NMCD responsible to physically incarcerate, or at least make NMCD financially responsible to pay for the incarceration of, certain additional groups of offenders whom NMCD currently has no statutory authority or duty to incarcerate or pay for (probation violators, felony offenders serving an actual incarceration period of less than one year, etc.). There may be a tendency for some county officials to simply focus on trying to push these offenders into NMCD in order to reduce their jail overcrowding and to lower their jail costs.

While NMCD certainly does have the ability to reduce its overcrowding when needed via the Corrections Population Control Act, that Act does not allow NMCD to send any of its prisoners to the county jails to reduce overcrowding. Unfortunately, in years past, some counties have proposed legislation that would have allowed them to send some of their felony offenders to NMCD when their jails become overpopulated. NMCD will continue to oppose this type of legislation.

All efforts should be made to resolve the counties' jail population problem without increasing the costs of the state or NMCD and without increasing the population of NMCD prisons. NMCD would welcome the opportunity to participate in studying and discussing county jail overcrowding issues with an eye toward avoiding passing the costs onto NMCD or the state.

DFA indicates as follows:

According to John Dantis, Deputy County Manager for the Public Safety Division in Bernalillo County, he believes this study of current law relating to managing county jail overcrowding is absolutely necessary and is long overdue. There are many serious conditions that currently exist within county detention centers. There are issues of jails being seriously overcrowded. Counties must shoulder almost one hundred percent of the costs to fund their detention centers and detention center costs comprise approximately one-fourth of a county's general fund in their budget.

Mr. Dantis states that the Bernalillo County Detention Center costs over \$60 million per year to operate and the county commission has no authority to manage it. The law has not had any substantive changes since 1865 and the cost of jails has significantly increased since then.

Another area of concern is that many local district judges will sentence people to local jails that should be sent to prisons. There are approximately 2,700 people on average per day that are in county jails that should be in the New Mexico Department of Corrections (NMDOC).

There is also the fact that county's need court approval to place an inmate into community custody and the courts retain authority over county jail inmates. This is not the case with the NMDOC where they have authority to control the intake and placement of inmates, especially during a crisis such as overcrowding.

In short, Mr. Dantis hopes this study could create some kind of criteria to that regulates how, where, and for how long felons/misdemeanors should stay in county detention centers and to determine whether or not if it is time to give the same authority to New Mexico's counties that the NMDOC has over its prisoners.

CONFLICT, DUPLICATION, COMPANIONSHIP OR RELATIONSHIP

Relates to House Joint Memorial 42

ALTERNATIVES

DFA states, to Combine House Joint Memorial 42 and Senate Joint Memorial 39 to save time on studying similar issues which will allow more time to study the unique points of each memorial since the same groups are involved with each study

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

DFA states, there would be no study conducted that could possibly give ideas about creating new county powers that be concerning county prisoners and offer money saving ideas to run county jails and their prisoners to the fifteenth legislature

AMENDMENTS

NMCD states to amend the bill to clarify or state that NMCD will be one of the entities participating in or contributing to the study.

PME/svb