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FISCAL IMPACT REPORT

SPONSOR: Salazar DATE TYPED: 03/12/01 HB 547/aHJC
 SHORT TITLE: Reimburse Counties for Prisoner Expenses SB _____
 ANALYST: Padilla

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	NFI		See below	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 294, which requires the Corrections Department to reimburse counties for the expense of incarcerating parole violators and those awaiting transport to state correctional facilities after having been sentenced.

SOURCES OF INFORMATION

LFC Files
 Department of Finance and Administration (DFA)
 Corrections Department
 Department of Public Safety
 New Mexico Association of Counties

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment clearly describes the types of prisoners for which counties can be reimbursed care and feeding expenses while in transit. This addresses the second issue addressed below under “technical issues.”

Synopsis of Bill

House Bill 547 amends statute to mandate state reimbursement to counties for a portion of the per diem and other travel costs associated with extraditing and transporting state prisoners. The bill places caps on the total amount of state reimbursement of \$1 million for FY03 and \$1.5 million for FY04 and subsequent years. The bill does not make an appropriation.

Significant Issues

Many of the prisoners being transported in the state by county sheriffs have either been convicted and sentenced on state charges or have been charged under state law and are awaiting adjudication. County sheriffs' departments transport state prisoners at the direction of a state court. Section 4-4-18 NMSA 1978 authorizes reimbursement to counties for prisoner extradition and transport. In past years, the legislature appropriated money for this purpose, but this appropriation declined from \$700.0 in FY 1995 to \$175.0 in FY 1998 and disappeared altogether in FY 1999.

The bill makes the following three significant changes to the existing statute:

1. It makes state reimbursement for county prisoner extradition and transport costs mandatory instead of discretionary.
2. It sets the reimbursement rate at not more than 50 percent of actual expenses.
3. It limits counties with populations of more than 100,000 to cumulatively receiving no more than half the money allocated to all counties.

The mandatory reimbursement would not begin until FY 2003. In order to provide for the mandatory reimbursement, appropriations would need to be made to DFA in FY 2003 and subsequent years.

FISCAL IMPLICATIONS

This bill contains no appropriation.

The bill's provisions mandating state reimbursement are not effective until FY 2003. Once the state is required to reimburse counties, an appropriation would have to be made to DFA to cover the costs. For FY 2003, the bill establishes a maximum of \$1 million that can be reimbursed by the state. For FY 2004 and subsequent years, the maximum is set at \$1.5 million.

DFA notes that actual reimbursement averaged \$365.2 over the six years between FY 1993 and FY 1998. The reimbursements ranged from a high of \$464.2 in FY 1993 to a low of \$175.0 in FY 1998, when only \$175.0 was appropriated for this purpose.

ADMINISTRATIVE IMPLICATIONS

DFA and the individual counties would be responsible for administering the reimbursement program.

The Association of Counties reports a number of small counties that could potentially benefit from state reimbursement have such limited administrative capacities that in the past they have been unable to apply for and receive reimbursement.

The Corrections Department believes the bill does not clearly state which agency would be responsible for making the reimbursement. The Corrections Department believes that if it were required to administer the funds, it could result in a "significant increase in the administrative burden" on the department. It should be noted that DFA has performed this task in the past with no increase in funding.

TECHNICAL ISSUES

House Bill 547/aHJC -- Page 3

The last part of the bill's title ("Making An Appropriation") is incorrect. The bill does not make an appropriation.

DFA believes the language on page 3, lines 20-22 does not adequately describe the types of prisoners for which counties can be reimbursed feeding expenses.

Counties with populations of more than 100,000 are Bernalillo, Doña Ana, San Juan and Santa Fe. Collectively, these four counties cannot receive more than 50 percent of any money allocated to counties for reimbursement.

OTHER SUBSTANTIVE ISSUES

The New Mexico Association of Counties recently surveyed counties to determine their annual expenses for transportation and extradition of stat prisoners. For the 21 counties which responded, FY 2000 expenses totaled over \$2.8 million.

The Association of Counties supports this bill because it would clarify the financial responsibility of transporting and extraditing state prisoners. The Association has proposed a 75 percent reimbursement rate, with a provision that no single county be given more than 50 percent of the available funds.

POSSIBLE AMENDMENTS

DFA recommends making the language on page 3, lines 20-22, identical to the language on page 2, 18-22, when it describes which prisoners are eligible for reimbursement (i.e., "extraditing prisoners from without the state and for transporting persons committed by a court to any state institution or required to be returned by order to the court from any state institution to the county of commitment.")

LP/lrs/njw