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FISCAL IMPACT REPORT

SPONSOR Fidel DATE TYPED 2/21/05 HB _____

SHORT TITLE Out-of-State Inmate Definition SB 872

ANALYST Peery

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	See Narrative				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

No Responses

Department of Indian Affairs (DIA)

New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

Senate Bill 872 amends the definition of "out-of-state inmate" in the Privately Operated Correctional Facilities Oversight Act. The new definition is a person incarcerated in a privately operated correctional facility within New Mexico who is being incarcerated on behalf of a state other than New Mexico or a governmental entity whose jurisdiction is outside the state.

FISCAL IMPLICATIONS

AGO states this amendment of the definition of "out-of-state inmates" could result in increased revenue for counties in which privately operated correctional facilities are located. AGO reports the dollar amount would depend on the number of inmates incarcerated on behalf of the United States government in privately operated correctional facilities within New Mexico.

OTHER SUBSTANTIVE ISSUES

AGO reports the definition for “out-of-state inmate” would no longer exclude an inmate who is incarcerated in a privately operated correctional facility within New Mexico and who is incarcerated on behalf of the United States federal government.

AGO states inmates incarcerated on behalf of the United States federal government in privately operated correctional facilities will now be included in the Privately Operated Correctional Facilities Oversight Act. AGO reports depending on the number of inmates this measure could result in increased minimum standards for certain privately operated correctional facilities. Pursuant to Section 33-15-3 NMSA 1978 a privately operated correctional facility proposing to house ten or more “out-of-state inmates” is required to meet certain minimum standards. The minimum standards include the following:

- Correctional officers and other security officials must successfully complete background checks and additional training.
- The facility must give notice and a written report to certain state and local officials when certain events occur such as discharge of a firearm, discharge of a chemical agent, hostage situation, death of an inmate, a disturbance involving five or more inmates, an escape or attempted escape, or the commission of a felony offense.
- The facility must obtain and maintain accreditation by the American Correctional Association.
- The facility must prepare an Emergency Response Plan.
- The written contract with a privately operated correctional facility that proposes to house ten or more out-of-state inmates must provide for these minimum standards.

AGO reports the proposed legislation could result in increased revenue for counties in which a privately operated correctional facility that houses “out-of-state inmates” is located. AGO states pursuant to Section 33-15-4(B) NMSA 1978, the operator of these privately operated correctional facilities is required to pay a quarterly fee to the county in which the facility is located. The amount of the fee is a minimum of \$2.00 per inmate per day for each “out-of-state inmate.”

RLP/yr:lg