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HOUSE BILL 296

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Joseph Cervantes

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL SENTENCING; CREATING PROCEDURES FOR  
CERTAIN LEGISLATION THAT WOULD INCREASE OR CREATE CRIMINAL  
PENALTIES; REQUIRING THAT AN APPROPRIATION ACCOMPANY ANY SUCH  
LEGISLATION; REQUIRING FISCAL IMPACT STATEMENTS; CREATING A  
FUND; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. LEGISLATION TO INCREASE OR CREATE PERIODS OF  
IMPRISONMENT--FISCAL IMPACT STATEMENTS--PROCEDURE.--

A. The New Mexico sentencing commission shall  
prepare a fiscal impact statement as provided in this section  
for a bill that:

(1) creates a new crime for which imprisonment  
is authorized;

(2) increases the period of imprisonment

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1 authorized for an existing crime;

2 (3) imposes mandatory minimum terms of  
3 imprisonment; or

4 (4) modifies the law governing release of  
5 inmates in such a way that the time served in prison will  
6 increase.

7 B. A fiscal impact statement shall reflect the  
8 estimated increase in annual operating costs for the  
9 corrections department attributable to the bill if it becomes  
10 law. The estimated increase in annual operating costs shall  
11 reflect the highest annual increase from the projected increase  
12 for the six fiscal years following the effective date of the  
13 law and shall be calculated in current dollars. The fiscal  
14 impact statement shall include details concerning any increase  
15 or decrease in the inmate population.

16 C. The amount estimated in a fiscal impact  
17 statement shall be printed in the title of the bill and shall  
18 be included in the bill as a one-year appropriation from the  
19 general fund to the criminal justice special fund. If the New  
20 Mexico sentencing commission does not have sufficient  
21 information to project the fiscal impact, the fiscal impact  
22 statement shall state that there is insufficient information to  
23 estimate the fiscal impact and the words "costs cannot be  
24 determined" shall be printed in the title of the bill.

25 D. For each law enacted that results in a net

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1 increase in periods of imprisonment in adult correctional  
2 facilities and for which a fiscal impact statement has been  
3 prepared, an appropriation shall be made from the general fund  
4 to the criminal justice special fund in an amount equal to the  
5 amount estimated in the fiscal impact statement.

6 E. The New Mexico sentencing commission shall  
7 prepare fiscal impact statements for bills described in  
8 Subsection A of this section only if they are presented no  
9 later than December 1 to the commission, to the interim  
10 legislative committee that oversees criminal justice or to the  
11 legislative finance committee. The New Mexico sentencing  
12 commission shall complete the fiscal impact statements no later  
13 than January 15 of the following calendar year and shall  
14 forward copies of the statements to the legislative council  
15 service and the legislative finance committee and to the chief  
16 clerk of the house of representatives and the chief clerk of  
17 the senate for transmittal to the primary sponsors of the  
18 legislation and to the chair of each committee assigned to  
19 consider the legislation.

20 F. The corrections department shall annually  
21 provide the New Mexico sentencing commission with the average  
22 operating costs per inmate and the number of inmates in adult  
23 correctional facilities.

24 G. As used in this section, "operating costs" means  
25 all costs other than capital outlay costs for state-operated

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1 adult correctional facilities and privately operated adult  
2 correctional facilities.

3 Section 2. CRIMINAL JUSTICE SPECIAL FUND--CREATED.--

4 A. The "criminal justice special fund" is created  
5 in the state treasury. The fund consists of appropriations,  
6 gifts, grants, donations and bequests made to the fund. Income  
7 from the fund shall be credited to the fund. Money in the  
8 criminal justice special fund shall not revert to the general  
9 fund.

10 B. Money in the criminal justice special fund shall  
11 be subject to appropriation by the legislature for criminal  
12 justice purposes, including operational costs of the  
13 corrections department, courts, district attorneys and the  
14 public defender department.

15 Section 3. APPROPRIATION.--Seventy thousand dollars  
16 (\$70,000) is appropriated from the general fund to the New  
17 Mexico sentencing commission for expenditure in fiscal year  
18 2008 to pay salaries and benefits to staff for the preparation  
19 of fiscal impact statements as required by this act. Any  
20 unexpended or unencumbered balance remaining at the end of  
21 fiscal year 2008 shall revert to the general fund.

22 Section 4. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2007.