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FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/07
 SPONSOR HCPAC LAST UPDATED 3/8/07 HB 636/HCPACS
 SHORT TITLE County Detention & Incarceration Programs SB _____
 ANALYST Peery-Galon

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	None		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Unknown	Unknown	Unknown	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

New Mexico Corrections Department (NMCD)
 New Mexico Sentencing Commission (NMSC)
 Attorney General's Office (AGO)
 Administrative Office of the Courts (AOC)
 Public Defender Department (PDD)
 Bernalillo County Metro Court (BCMC)

No Responses Received From

New Mexico Municipal League
 New Mexico Association of Counties

SUMMARY

Synopsis of Bill

The House Consumer and Public Affairs Committee Substitute for House Bill 636 amends Section 30-22-8.1 NMSA 1978 regarding escape from a community custody program to include alternative incarceration programs. The substitute amends Section 33-3-3 NMSA 1978 to

require the sheriff or a jail administrator to adopt and implement written policies for the admission and assignment of inmates to the county jail or an alternative incarceration program, and for the classification of inmates in the jail or alternative incarceration program.

The substitute adds a new section to Chapter 33, Article 3 NMSA 1978 allowing a county to develop and implement, in conjunction with the County Detention Facility Population Control Committee and approved by the board of county commissioners, an alternative incarceration program. An inmate charged or convicted of a nonviolent offense is eligible to be placed in an alternative incarceration program. An inmate charged or convicted of a nonviolent offense who is placed in an alternative incarceration program may pay the costs associated with the placement according to a sliding fee scale to be set by the board of county commissioners.

The substitute states that the board of county commissioners may create a County Detention Facility Population Control Commission for the purpose of establishing, developing and implementing mechanisms to prevent the inmate population from exceeding the rated capacity of county detention facilities and to provide procedures to be followed to reduce the inmate population. Rated capacity is defined as the actual general population bed space, including only individual cells and areas designed for the housing of inmates as provided for in the county detention facility's design and the available staffing level. The board of county commissioners shall at least annually establish the rated capacity for each county detention facility.

The substitute states that if the inmate population of a county detention facility is in excess of 100 percent of rated capacity after 120 consecutive days, the county sheriff or jail administrator is to notify the County Detention Facility Population Control Commission, along with other state and local entities. The commission is to convene within 10 days of the receipt of notification to review a list of nonviolent offenders and the commission is permitted, with judicial approval by the sentencing judge, to award good time credit pursuant to Section 33/3/9 NMSA 1978 and to release nonviolent offenders who have completed their sentence with the good time credit.

FISCAL IMPLICATIONS

NMCD notes the proposed legislation's creation of a new felony crime of escaping an alternative program could have a minimal impact on the prison population and probation/parole caseloads. NMCD states the annual cost of incarcerating an inmate is \$23,867 per year for males and \$21,651 per year for females. The cost per client in probation and parole for a standard supervision program is \$1,467 per year, for an intensive supervision program is \$3,383 per year, for a NMCD community corrections program is \$3,503 per year, for a privately-owned community corrections program is \$7,917 per year, and for male and female residential community corrections program is \$39,401 per year.

SIGNIFICANT ISSUES

AGO notes the substitute does not specify exactly where inmates would be housed if placed in an alternative incarceration program or exactly what sort of supervision the inmates would receive.

The substitute requires the sheriff or jail administrator to notify the department when a county facility is over its rated capacity. NMCD states this makes no sense due to the department having no authority to remove felony offenders from any county facility. NMCD reports pursuant to Section 33-2-19 and 31-20-2 (A) NMSA 1978, the department lacks the statutory

authority to remove or house individuals convicted of felonies if the time to be served, after accounting for any pre-sentenced credit and any period of confinement being suspended or deferred, is less than one year. NMCD has no authority to remove a person from a county facility if a person convicted of a felony is incarcerated in a county facility for a probation violation, or has been arrested and placed in a county facility on a new criminal charge but not on a parole violation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The proposed legislation has a relationship with Senate Bill 743.

ALTERNATIVES

NMCD suggests amending the proposed legislation to remove any and all references to the Corrections Department or the secretary of the Corrections Department.

RGP/nt