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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/08

SPONSOR Foley LAST UPDATED _____ HB 479

SHORT TITLE County Detention Facility Reimbursement SB _____

ANALYST Peery-Galon

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$29,724.0	Non-recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	\$29,724.0		Non-Recurring	County Detention Facility Reimbursement Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1	\$0.1	\$0.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)

No Responses Received From

Department of Finance Administration

New Mexico Sentencing Commission

Association of Counties

SUMMARY

Synopsis of Bill

House Bill 479 appropriates \$29,724.0 from the general fund to the County Detention Facility Reimbursement Fund, for expenditure in fiscal year 2009 and subsequent years, to reimburse counties in New Mexico for the costs incurred by the counties for the incarceration of felony offenders.

FISCAL IMPLICATIONS

The appropriation of \$29,724.0 contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

NMCD states if the fund is adequately funded as of result of the proposed legislation, the bill may have a minimal to moderate fiscal impact on the department. NMCD states an adequately funded fund would essentially forever remove any liability or obligations of the department to have to pay the counties for these ongoing, substantial incarceration costs.

SIGNIFICANT ISSUES

The County Detention Facility Reimbursement Fund was created last year, and is to be administered by the Local Government Division of the Department of Finance Administration. Money in the fund is to be used for reimbursing counties for the incarceration of a “felony offender.” NMCD states a felony offender is defined as a person convicted of a felony and sentenced to confinement in a facility designated by the New Mexico Corrections Department who:

1. Has been released from confinement and is a dual supervision offender (on both probation and parole) and has violated his parole or is charged with a parole violation, or has violated probation or is charged with a probation violation, or while on parole is charged with a violation of local, state tribal, federal or international law;
2. Has been released from confinement and is serving a parole term and has violated his/her parole or is charged with a parole violation, or while on parole is charged with a violation of local, state, tribal, federal or international law; or
3. Is awaiting transport and commitment to the New Mexico Corrections Department following the revocation of parole or a sentencing hearing for a felony conviction.

The distribution is based primarily on a formula developed by the New Mexico Sentencing Commission (NMSC). The formula has an additional amount set aside for smaller counties with demonstrated need. NMSC developed a methodology for distributing to counties based on the ratio of a county’s eligible offenders and all eligible offenders. Thirty-thousand from the fund goes to NMSC to maintain the data for the formula. NMSC provides the Local Government Division a list of counties with the appropriate share of the distribution.

In the 2007 legislative session, a \$5 million appropriation of recurring general fund dollars was appropriated to the fund. NMCD states many counties appear to believe that \$5 million is not sufficient to cover the total annual cost of incarcerating felony offenders. NMCD notes that at least one county, Bernalillo County, is hesitating to go through the fund, and instead is seeking payment directly from the Corrections Department for at least some of these costs.

NMCD reports that adding money to the fund is likely to ensure that all counties receive full payment through the fund, and reduce the likelihood that the counties will instead try to directly bill the department for these costs. NMCD notes the adding of more money to the fund would make the department more comfortable with the possibility of having to relinquish the \$1 million it has been appropriated annually to pay counties for housing parole violators. NMCD states it has wanted to keep this yearly appropriation in the event that the money in the fund is insufficient to pay all the counties and if counties seek direct payment from the department for the difference.

ADMINISTRATIVE IMPLICATIONS

NMCD states if the proposed legislation results in no counties seeking direct payment from the department for these incarceration costs, then the department's administrative burden will be decreased by a minimal to moderate degree. When counties seek direct payment from the New Mexico Corrections Department, the department must make sure that each offender housed in a county jail is a parole violator or dual supervision violator, and verify that the offender was actually in jail on the days the county claims. NMCD notes they have requested that all counties go through the fund and not seek payment directly from the department; however, Bernalillo County has been hesitant to comply with this request.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 479 has a relationship to House Bill 410 and House Bill 417.

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