

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/12
 LAST UPDATED 01/31/12

SPONSOR HJC HB 152/HJCS

SHORT TITLE Criminal Penalties Legislation Procedures SB _____

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	\$176.5	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 New Mexico Corrections Department (NMCD)
 New Mexico Sentencing Commission (NMSC)

SUMMARY

Synopsis of Bill

The House Judiciary Committee substitute for House Bill 152 appropriates \$176,500 from the general fund to the New Mexico Sentencing Commission for expenditure in fiscal year 2013 to obtain necessary computer models, technology, research and data and to hire personnel for the preparation of fiscal impact statements as required by this bill.

The bill requires the NMSC to prepare fiscal impact statements for any legislation that will create a new crime or repeals an existing crime for which imprisonment is authorized, increases or decreases the period of imprisonment authorized for an existing crime, imposes or removes mandatory minimum terms of imprisonment or modifies the law governing release of inmates in such a way that the time served in prison will increase or decrease.

The fiscal impact statement shall reflect the estimated increase in annual operating costs for the NMCD attributable to the bill if it becomes law. The estimated increase in annual operating costs shall reflect the highest annual increase from the projected increase for the six fiscal years following the effective date of the law and shall be calculated in current dollars. The fiscal impact statement shall include details concerning any increase or decrease in the inmate population.

The amount estimated in a fiscal impact statement shall be included in the bill as a one-year appropriation from the general fund to the criminal justice special fund. If the NMSC does not have sufficient information to project the fiscal impact, the fiscal impact statement shall state that there is insufficient information to estimate the fiscal impact.

For each law enacted that results in a net increase in periods of imprisonment in adult correctional facilities, an appropriation shall be made from the general fund to the criminal justice special fund in an amount equal to the amount estimated in the fiscal impact statement.

The NMCD shall annually provide the NMSC with the average operating costs per inmate and the number of inmates in adult correctional facilities. The NMCD shall annually provide the New Mexico sentencing commission with admissions and release data for all inmates in adult correctional facilities. The judiciary shall annually provide the NMSC with requested data necessary to prepare fiscal impact statements.

FISCAL IMPLICATIONS

The appropriation of \$176,500 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY13 shall revert to the general fund.

HB 152 creates the Criminal Justice Special Fund in the state treasury, which shall be a non-reverting fund, consisting of appropriations, gifts, grants, donations, and bequests made to the fund. Money in the fund can be appropriated by the legislature for criminal justice purposes, including operational costs of the NMCD, courts, district attorneys, and the public defender.

HB 152 does not make an appropriation to this new fund.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

NMSC states the legislative session is relatively short with hundreds of bills to consider and fiscal analysis of bills places a premium on speed. The NMSC states they are well placed to prepare impact statements due to the membership of the NMSC, its association with university research scientists and access to data.

The bill also requires NMCD to annually provide the NMSC with the average operating costs per inmate and the number of inmates in its adult correctional facilities. NMCD already maintains this information.

ADMINISTRATIVE IMPLICATIONS

The NMCD notes the bill could ultimately fund NMCD any time a new or expanded crime bill was passed by the legislature which negatively fiscally impacted NMCD. However, the bill does not mandate that the fund money be given or appropriated to NMCD, and allows the legislature to utilize that money in the newly created criminal justice special fund for other purposes. Thus, there is no guarantee that NMCD would be able to utilize much or any of the money. The fiscal

impact on NMCD, and the performance and administrative implications for NMCD, is therefore unknown at this time.

DW/amm:svb