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## FISCAL IMPACT REPORT

SPONSOR SPAC ORIGINAL DATE 1/31/2018  
 LAST UPDATED 2/5/2018 HB \_\_\_\_\_

SHORT TITLE Operating Unmanned Aircraft Near Prison SB 166/SPACS

ANALYST Edwards

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0	Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Office of the Attorney General (NMAG)  
 New Mexico Corrections Department (NMCD)  
 Children, Youth and Families Department (CYFD)

### SUMMARY

#### Synopsis of Bill

The Senate Public Affairs Committee substitute for Senate Bill 166 proposes a new statute preventing and criminalizing the flying or operation of drones near New Mexico prisons, other facilities that house inmates, and CYFD facilities used for detaining or committing children (collectively referred to as “prison” in this synopsis). It limits drones from flying within 500 feet surrounding prison grounds or from flying within 250 feet of the airspace above prison grounds. The proposed rule provides exceptions to these limitations for law enforcement, defined first responders during an emergency, and anyone who has written permission from the prison’s warden or facility’s director. Criminal penalties for violating this new rule are graduated: a first conviction is a petty misdemeanor, and all subsequent convictions are misdemeanors.

### FISCAL IMPLICATIONS

NMCD estimates that the sentencing provisions in the bill will have only a minimal impact on its prison population and probation and parole caseloads as NMCD estimates that the number of individuals who will use drones to bring illegal contraband into a NMCD prison will be small.

The bill may generate minimal administrative costs for statewide update, distribution, and documentation of constitutional changes within the Administrative Office of the Courts. Any additional fiscal impact on the judiciary would be proportional to passage of this amendment and any resultant state court proceedings. Such proceedings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

## **SIGNIFICANT ISSUES**

NMCD submitted the following analysis:

Individuals using drones to smuggle or introduce drugs, cell phones and weapons into prisons is becoming a big concern and problem. In 2017, the state of Michigan had three incidents where drones were used to bring in razor blades, cell phones and drugs. In June 2017, USA Today reported that drones had been used more than 12 times in the last five years to smuggle contraband into federal prisons. In August 2014, a drone crashed while smuggling marijuana into a South Carolina maximum security prison. In 2015, a drone dropped heroin, tobacco and marijuana into a recreation yard at the Mansfield Correctional Institute in Ohio, resulting in a fight or disturbance among some 75 inmates in that yard.

In 2016 in Maryland, a recently released inmate and another inmate serving a life sentence were sentenced for drug trafficking and delivery of contraband into a prison. The inmates used night time drones to bring large amounts of drugs into prison, with the drug value of each drone drop averaging \$6,000. The released inmate actually made enough money from the drops to be able to purchase a vehicle. In 2015 in Oklahoma, a drone carrying hacksaw blades, a cell phone and several drugs crashed at the Oklahoma State Penitentiary in McAlester. Prison staff members were able to secure the contraband before inmates could access it. In 2017, Arizona prison officials captured a crashed drone containing cell phones and drugs next to the Lewis Prison in Buckeye, Arizona.

Currently, the states of Georgia and Iowa (in addition to New Mexico) are considering legislation which would ban drones from crossing into prison space. Drones have been observed in both of those states passing over or near prison facilities. In Iowa, the bill's sponsor or advocate is very concerned that drones will be used to smuggle guns or other weapons into that state's prisons.

Both Tennessee and North Carolina have already passed laws prohibiting the use of drones over prison air space. To date, at least 11 states including New Mexico have made or are making efforts to pass legislation banning drones over prison air space or other similar legislation focused on preventing the introduction of contraband into their prisons via drone. As drone technology continues to improve to allow larger payloads and more efficient and fast flying and maneuvering, prisons across the country are likely to encounter more instances of drones being used to introduce weapons and drugs into prisons, to the detriment to prison safety and security.

The NMCD is very concerned about handguns or semi-automatic weapons, knives and other sharp instruments, and highly potent illegal drugs being delivered into its prison via drones. Even one successful drone mission could result in the enormous loss of life and pain and suffering - inmates using weapons to shoot other inmates, staff and visitors;

inmates overdosing on large amounts of immediately available and highly potent drugs such as heroin or cocaine; inmates causing disturbances or riots while under the influence of drugs or alcohol and/or while in the possession of firearms, knives, or bombs, etc.

The NMCD has reason to believe that a drone was used to drop off suboxone just outside of the chapel at the Springer Correctional Center in Springer, New Mexico in the Winter of 2017. The NMCD has reason to believe that other attempts to use drones to bring in illegal contraband will occur in the future, especially as the NMCD implements its recently acquired scanner technology to better prevent contraband from being smuggled in “the front door” during visits and shift changes.

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