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FISCAL IMPACT REPORT

SPONSOR <u>HAFC</u>	LAST UPDATED <u>6/30/2023</u>
	ORIGINAL DATE <u>3/6/2023</u>
SHORT TITLE <u>Law Enforcement Workforce Building Fund</u>	BILL NUMBER <u>CS/CS/House Bill 357/HJCS/HAFCS</u>
	ANALYST <u>Rabin/Gray</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY25	FY26	FY27	FY28	FY29	5 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Costs to Maintain Public Attorney Program	No fiscal impact	\$2,000.0	\$2,000.0	\$2,000.0	\$2,000.0	\$8,000.0	Recurring	General Fund
Costs to Maintain Law Enforcement Program	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	\$6,500.0	\$6,500.0	Recurring	General Fund
Total	No fiscal impact	\$2,000.0	\$2,000.0	\$2,000.0	\$8,500.0	\$14,500.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Conflicts with Senate Bill 288
Relates to appropriations in the General Appropriation Act

Sources of Information

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)
Public Defender Department (PDD)
New Mexico Attorney General (NMAG)
Department of Finance and Administration (DFA)
Sentencing Commission (NMSC)
Department of Public Safety (DPS)

SUMMARY

Synopsis of HAFC Substitute for HJC Substitute for House Bill 357

The House Appropriations and Finance Committee Substitute for the House Judiciary Committee Substitute for House Bill 357 creates the law enforcement workforce capacity building fund, the public attorney workforce capacity building fund, and the detention and corrections workforce capacity building fund, which aim to increase the available workforce among law enforcement officers, prosecutors, public defenders, and detention and correctional officers.

Law Enforcement Workforce Capacity Building Fund. The law enforcement workforce

capacity building fund is administered by the Department of Finance and Administration (DFA) and a four-member committee comprising:

- One representative from DFA, appointed by the DFA secretary;
- One representative from the Department of Public Safety (DPS), appointed by the DPS secretary;
- One representative from a municipal police department, appointed by the Municipal League; and
- One representative from a county sheriff's office, appointed by New Mexico Counties.

Money in the fund may be used to provide grants to municipal police departments and county sheriff's offices for initiatives aimed at increasing the available workforce of law enforcement officers, including initiatives to recruit and retain high-quality officers. The New Mexico State Police (NMSP) may also receive awards, but only for initiatives undertaken in collaboration with a local law enforcement agency. To be eligible for grants, agencies must be in compliance with all applicable statutory reporting requirements.

Allowable uses of the grants include:

- Providing payments to newly hired officers (including for relocation expenses);
- Providing payments to currently-employed officers aimed at retention;
- Implementing professional development initiatives designed to recruit, train, and retain law enforcement officers, including training in community-oriented policing and other evidence-based forms of policing; and
- Implementing campaigns to recruit in-state and out-of-state candidates.

Grants explicitly cannot be used for recurring initiatives (unless a grantee has provided a plan to replace nonrecurring grant funds with another source of recurring funds), to create new law enforcement officer positions, or to fund the base salary of existing law enforcement officer positions.

The committee is tasked with developing and periodically revising criteria for awarding the grants based on evaluations or workload studies, notifying eligible applicants, awarding the grants, collecting information on initiative expenditures, and reporting information on applicants, grantees, and initiatives to the Legislature. The grant criteria must consider vacancy rates, local cost-of-living and comparable market compensation, and crime rates, and must prioritize:

- Initiatives to recruit experienced law enforcement officers not currently employed by New Mexico law enforcement agencies;
- Initiatives undertaken in collaboration between local law enforcement agencies with overlapping jurisdictions;
- Initiatives undertaken by law enforcement agencies that use or intend to use community-oriented policing or other evidence-based forms of policing; and
- Initiatives intended to increase agency investigative capacity, including initiatives to recruit or retain investigative personnel and initiatives to train existing personnel to serve as investigators.

Up to 3 percent of the available funding may be used by DFA for administrative costs, including evaluation of the efficacy of prior award recipients and conducting workload studies. Of the

remaining funds:

- Up to 25 percent may be used for awards to entities in counties with populations 500 thousand or greater;
- Up to 35 percent may be used for awards to entities in counties with populations between 100 thousand and 500 thousand; and
- All remaining funding may be awarded to entities in counties with populations under 100 thousand.

For initiatives undertaken in collaboration between NMSP and a local law enforcement agency, that local agency's county is used as the primary jurisdiction.

Grantees must report expenditures for the initiative to the committee on 90-day intervals until the initiative is completed or all funds are expended, whichever is earlier. Any unexpended money remaining after the completion of the initiative shall revert to the fund within 60 days.

The committee must provide yearly reports to the Legislature on applicants, grantees, data collected, and evaluations made by DFA regarding the efficacy of prior award recipients, the status of ongoing workload studies, and the results of workload studies completed since the prior report.

HB357 repeals existing statute creating a program for law enforcement recruitment and retention at DFA.

Public Attorney Workforce Capacity Building Fund. The public attorney capacity building fund would be administered by DFA and a four-member committee comprising:

- Two members employed by the Administrative Division of the Public Defender Department (PDD), appointed by the chief public defender; and
- Two members employed by the Administrative Office of the District Attorneys (AODA) and appointed by the AODA director.

Money in the fund may be used to provide grants to local offices of the public defender and district attorney offices for initiatives aimed at recruiting and retaining public defenders and prosecutors.

Allowable uses of the grants include:

- Providing payments to newly hired attorneys (including for relocation expenses);
- Providing payments to currently-employed attorneys aimed at retention;
- Implementing professional development initiatives designed to recruit, train, and retain attorneys; and
- Implementing campaigns to recruit in-state and out-of-state candidates.

Grants explicitly cannot be used for recurring initiatives (unless a grantee has provided a plan to replace nonrecurring grant funds with another source of recurring funds), to create new attorney positions, to fund the base salary of existing attorney positions, or to contract with private attorneys for prosecution or defense services unless the initiative is focused on increasing the

number or capacity of private attorneys available to provide prosecution or defense services in a county or judicial district.

The committee is tasked with developing and periodically revising criteria for awarding the grants based on evaluations or workload studies, notifying eligible applicants, awarding the grants, collecting information on initiative expenditures, and reporting information on applicants, grantees, and initiatives to the Legislature. The grant criteria must consider vacancy rates, current workforce, caseloads, local cost-of-living and comparable market compensation, and crime rates, and must prioritize:

- Initiatives targeting recruitment of law school students, attorneys not currently employed or contracted by the state, and attorneys not currently employed in the state;
- Initiatives undertaken in collaboration among public defender officers, district attorney offices, and other criminal justice partners; and
- Initiatives that will take place within a judicial district with pre-prosecution diversion programs or a plan to implement those programs within two fiscal years.

Up to 3 percent of the available funding may be used by DFA for administrative costs, including evaluation of the efficacy of prior award recipients and up to 6 percent may be used by PDD and AODA for statewide initiatives to increase workforce capacity, including workload studies, as approved by the committee. Of the remaining funds:

- Up to 25 percent may be used for awards to entities in judicial districts with populations 500 thousand or greater;
- Up to 26 percent may be used for awards to entities in judicial districts with populations between 215 thousand and 500 thousand; and
- All remaining funding may be awarded to entities in judicial districts with populations under 215 thousand.

Grantees must report expenditures for the initiative to the committee on 90-day intervals until the initiative is completed or all funds are expended, whichever is earlier. Any unexpended money remaining after the completion of the initiative shall revert to the fund within 60 days.

The committee must provide yearly reports to the Legislature on applicants, grantees, data collected, and evaluations made by DFA regarding the efficacy of prior award recipients, the status of ongoing workload studies, and the results of workload studies completed since the prior report.

Detention and Corrections Workforce Capacity Building Fund. The detention and corrections workforce capacity building fund is administered by DFA and a four-member committee comprising:

- One representative from DFA, appointed by the DFA secretary;
- One representative from the Corrections Department (NMCD), appointed by the NMCD secretary;
- One representative who is employed by a local jail (detention facility), appointed by New Mexico Counties; and
- One representative who is a county manager of a county that operates a detention facility,

appointed by New Mexico Counties.

Money in the fund may be used to provide grants to county detention facilities for initiatives aimed at increasing the available workforce of detention officers, including initiatives to recruit and retain high-quality officers. NMCD and its correctional facilities (prisons) may also receive awards, but only for initiatives undertaken in collaboration with a county detention facility. To be eligible for grants, agencies must be in compliance with all applicable statutory reporting requirements and NMCD must be in compliance with reporting requirements related to active appropriations.

Allowable uses of the grants include:

- Providing payments to newly hired officers (including for relocation expenses);
- Providing payments to currently-employed officers aimed at retention;
- Implementing professional development initiatives designed to recruit, train, and retain detention officers, including tuition reimbursement and conducting a core training academy for detention officers employed by county detention facilities in collaboration with NMCD or DPS; and
- Implementing campaigns to recruit in-state and out-of-state candidates.

Grants explicitly cannot be used for recurring initiatives (unless a grantee has provided a plan to replace nonrecurring grant funds with another source of recurring funds), to create new detention officer positions, or to fund the base salary of existing detention officer positions.

The committee is tasked with developing and periodically revising criteria for awarding the grants based on evaluations or workload studies, notifying eligible applicants, awarding the grants, collecting information on initiative expenditures, and reporting information on applicants, grantees, and initiatives to the Legislature. The grant criteria must consider vacancy rates, local cost-of-living and comparable market compensation, an applicant's inmate population, and the ratio of officers to inmates, and must prioritize:

- Initiatives to recruit experienced detention officers not currently employed by New Mexico detention facilities or NMCD;
- Initiatives undertaken in collaboration between detention facilities, including initiatives undertaken in collaboration between a county detention facility and NMCD; and
- Initiatives undertaken by applicants that provide detention facilities to multiple counties.

Up to 3 percent of the available funding may be used by DFA for administrative costs, including evaluation of the efficacy of prior award recipients and conducting workload studies. Of the remaining funds:

- Up to 28 percent may be used for awards to entities in counties with populations 500 thousand or greater; and
- All remaining funding may be awarded to entities in counties with populations under 500 thousand.

For initiatives undertaken in collaboration between NMCD and a county detention facility, detention facility's county is used as the primary jurisdiction.

Grantees must report expenditures for the initiative to the committee on 90-day intervals until the initiative is completed or all funds are expended, whichever is earlier. Any unexpended money remaining after the completion of the initiative shall revert to the fund within 60 days.

The committee must provide yearly reports to the Legislature on applicants, grantees, data collected, and evaluations made by DFA regarding the efficacy of prior award recipients, the status of ongoing workload studies, and the results of workload studies completed since the prior report.

Effective Date. This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

HB357 does not contain an appropriation, but three appropriations totaling \$36.5 million in the House Appropriations and Finance Committee Substitute for House Bills 2 and 3, as amended by the Senate Finance Committee (General Appropriation Act), are contingent on the enactment of HB357 or similar legislation creating the law enforcement and public attorney workforce capacity building funds. These appropriations total \$32.5 million to DFA for the law enforcement workforce capacity building fund and \$4 million for the public attorney workforce capacity building fund (\$2 million each to PDD and AODA). There is currently no funding allocated for the corrections and detention workforce capacity building fund in the General Appropriation Act (GAA).

Any unexpended or unencumbered balances remaining in either the law enforcement workforce capacity building fund or the public attorney workforce capacity building fund at the end of a fiscal year shall revert to the general fund unless an appropriation provides a different period for expenditure. The appropriations to the public attorney workforce capacity building fund contained in the GAA allow for expenditure through FY25 and would not revert until the end of FY25. The appropriations to the law enforcement workforce capacity building fund contained in the GAA allow for expenditures through FY28 and would not revert until the end of FY28.

Although HB357 does not specify future appropriations, establishing new grant programs could create an expectation the program will continue in future fiscal years; therefore, this cost is assumed to be recurring. Because the appropriations in the GAA to the public attorney workforce capacity building fund provide for expenditure over a two-year time frame, it is assumed the appropriations of \$4 million include the costs of that grant program for two years, and ongoing annual costs in FY26 and future fiscal years will be \$2 million. Because the appropriations in the GAA to the law enforcement workforce capacity building fund provide for expenditure over a five-year time frame, it is assumed the appropriations of \$32.5 million include the costs of that grant program for five years, and ongoing annual costs in FY29 and future fiscal years will be \$6.5 million.

Based on current appropriations included in the GAA, the restrictions on allocations in HB357 will allow expenditures from each of the funds as outlined in the tables below. Lists of which counties and judicial districts fall within each “tier” of allocations for the law enforcement and public attorney workforce capacity building funds are included as Attachments 1, 2, and 3. The detention and corrections workforce capacity building fund is divided between Bernalillo County and all other counties in the state; however, there are currently no appropriations to this fund.

Law Enforcement Workforce Capacity Building Fund

Expenditure Description	Population Covered	Percent Allocation	Estimated Available Funding (in thousands)
Grant Allocations			
Counties with populations ≥ 500,000	674,393	Up to 25% (of total less other expenditures)	Up to \$7,881.3 ¹
Counties with populations < 500,000 and ≥ 100,000	649,071	Up to 35% (of total less other expenditures)	Up to \$11,033.8 ¹
Counties with populations < 100,000	792,413	At least 40% (of total less other expenditures)	At least \$12,610.0 ²
Other Expenditures			
DFA administrative costs	N/A	Up to 3% (of total)	Up to \$975.0

1. Assumes full amount of other expenditures are made. If other expenditures are less than their statutory maximum, the maximum for these allocations would increase.
2. Assumes full amount of other expenditures are made. If other expenditures are less than their statutory maximum, the minimum for these allocations would increase.

Source: LFC files

Public Attorney Workforce Capacity Building Fund

Expenditure Description	Population Covered	Percent Allocation	Estimated Available Funding (in thousands)
Grant Allocations			
Judicial districts with populations ≥ 500,000	674,393	Up to 25% (of total less other expenditures)	Up to \$910.0 ¹
Judicial districts with populations < 500,000 and ≥ 215,000	477,251	Up to 26% (of total less other expenditures)	Up to \$946.4 ¹
Judicial districts with populations < 215,000	964,233	At least 49% (of total less other expenditures)	At least \$1,783.6 ²
Other Expenditures			
DFA administrative costs	N/A	Up to 3% (of total)	Up to \$120.0
Statewide initiatives	N/A	Up to 6% (of total)	Up to \$240.0

1. Assumes full amount of other expenditures are made. If other expenditures are less than their statutory maximum, the maximum for these allocations would increase.
2. Assumes full amount of other expenditures are made. If other expenditures are less than their statutory maximum, the minimum for these allocations would increase.

Source: LFC files

Detention and Corrections Workforce Capacity Building Fund

Expenditure Description	Population Covered	Percent Allocation	Estimated Available Funding (in thousands)
Grant Allocations			
Counties with populations ≥ 500,000	674,393	Up to 28% (of total less other expenditures)	N/A
Counties with populations < 500,000	1,441,484	At least 49% (of total less other expenditures)	N/A
Other Expenditures			
DFA administrative costs	N/A	Up to 3% (of total)	N/A

Source: LFC files

SIGNIFICANT ISSUES

The law enforcement workforce capacity building fund, the public attorney workforce capacity building fund, and the detention and corrections workforce capacity building fund aim to address workforce shortages among these key criminal justice entities by increasing the available workforce for these positions. The programs are intended to fund initiatives aimed at persuading and enabling people who would not have otherwise gone into these fields to do so and bringing experienced individuals from out-of-state to New Mexico. Importantly, the programs are intended to incentivize collaboration between entities that currently compete for the same, limited, existing workforce, and disincentivize recruitment and retention efforts that result in staff being “poached” from other public entities.

Law Enforcement Workforce. Prior legislative efforts to increase the law enforcement officer workforce have not been implemented in alignment with legislative intent. During the last session, the Legislature created a new program within DFA to distribute up to \$50 million (appropriated in the 2022 GAA) over five years to local law enforcement agencies for recruitment and retention stipends, prioritizing increasing agencies’ investigative capacity. However, due to vetoes of language, these funds could also be used for other recruitment and retention strategies and the majority of the funding was awarded without a clear or rigorous application process. The first round of awards was made based on a survey sent to agencies by DPS that was not identified as an application, and many agencies, including eight of the 20 largest local law enforcement agencies in the state, consequently did not prioritize responding and were excluded from the first round of funding. Although five of these agencies received funding during a second round of awards, these awards were much lower than those received by comparably-sized agencies in the first round.

HB357 repeals the statute creating the previous law enforcement recruitment and retention program and creates a new program with clear guardrails around the distribution and use of these funds intended to avoid the issues encountered in the implementation of the prior program. The bill clearly identifies criteria to be considered when determining awards, adds representation from potential awardees to ensure the program is implemented in a manner that is useful for those agencies, and requires reporting on applicants and awardees to the Legislature. It also requires the administering committee to notify all eligible applicants of the availability of the grants.

Public Attorney Workforce. Both PDD and district attorneys' offices have raised concerns regarding staffing levels, with a recently completed workload study from the American Bar Association finding PDD should more than double its existing workforce. Recently, local public defender offices and district attorney offices have jointly applied for crime reduction grants to provide recruitment and retention stipends, with four judicial districts receiving such awards in FY23.

HB357 builds upon these efforts while also avoiding committing nonrecurring funds to recurring needs without identifying a future funding source. Additionally, provisions in HB357 providing funds for workforce studies can help enable AODA to conduct an in-depth assessment of the workforce needs of district attorneys similar to the study on PDD's workforce, which should enable the committee to better target awards.

Detention and Corrections Officer Workforce. Two memorials adopted during the 2022 session requested New Mexico Counties convene a task force of stakeholders, including representatives from the association, NMCD, and the Administrative Office of the Courts to study the costs, benefits, and feasibility of transitioning the state to a unified jail and prison system. Although the task force found unification is not the best option for New Mexico at this time, it did identify smaller, targeted efforts to address priorities and outstanding questions to improve the incarceration system at both the county and state levels, including working together to improve recruitment and retention and developing a training academy for detention staff through NMCD's training academy.

If funded, the detention and corrections workforce capacity building fund established by HB357 would support these efforts by incentivizing NMCD and county detention facilities to collaborate on initiatives to include staffing and provide a potential source of funding for a county detention officer training academy undertaken in collaboration with NMCD, DPS, or both.

Scope. The office of the New Mexico Attorney General (NMAG) notes the bill does not provide for funding to NMAG or law enforcement officers employed by other state agencies. The GAA provides for a 14.7 percent revenue increase to NMAG in FY24, providing targeted compensation and increasing authorized FTE by 22, a 10 percent increase.

DFA also notes the bill does not provide for funding to increase capacity of law enforcement support positions, vacancies in which can sometimes keep officers off the street.

CONFLICT, RELATIONSHIP

HB357 conflicts with the Senate Health and Public Affairs Committee Substitute for Senate Bill 288, which proposes amendments to Section 9-6-5.3 NMSA 1978, while HB357 proposes repealing that statute.

HB357 relates to three appropriations in the GAA providing a total of \$32.5 million for the law enforcement workforce capacity building fund and \$4 million for the public attorney workforce capacity building fund. These appropriations are contingent on the enactment of HB357 or similar legislation creating the funds.

HB357 also relates to appropriations in the GAA of \$1 million for the public service law loan repayment program and \$2 million to create judicial clerkships at district courts in rural areas,

but these appropriations are not contingent on enactment of HB357. Additionally, the GAA provides overall budget increases of 10.1 percent to PDD and averaging 5.6 percent among district attorneys' offices in FY24.

TECHNICAL ISSUES

HB357's repeal of statute creating a different program within DFA for law enforcement recruitment and retention should not impact the expenditure of funds already awarded under that program. The 2022 GAA provided \$50 million for recruitment and retention of law enforcement officers to be expended through FY27. Although the intention was for these funds to be awarded pursuant to the statutory provisions, the appropriation was not explicitly tied to those provisions. All or almost all of those funds have been awarded, and the repeal of the existing statute should not impact DFA's ability to provide the remaining funding as previously awarded through FY27.

OTHER SUBSTANTIVE ISSUES

Law Enforcement Workforce. Investing in recruitment and retention of high-quality law enforcement officers is an important component of protecting and improving public safety. Research shows the certainty of punishment is a significantly more effective deterrent to criminal behavior than the severity of punishment, with severity of punishment having no impact on crime reduction beyond the certainty of being caught. In New Mexico, however, punishment has grown less certain as crime has increased, with fewer violent crimes solved and more violent felony cases dismissed. Prioritizing solving crimes and securing convictions, particularly for serious offenses, could be extremely impactful to community safety. Improving policing and increasing cooperation and coordination among criminal justice partners could help increase the certainty of punishment for the most violent offenses and provide a strong deterrent to serious crime.

Research suggests increasing the number of law enforcement officers and allocating officers in a manner that heightens the perceived risk of apprehension helps deter crime, but New Mexico has struggled to grow its law enforcement workforce over the past 10 years. Between FY13 and FY22, the number of certified law enforcement officers employed by municipal police departments, county sheriffs' offices, and state police grew just 2.4 percent, and during the crime increase between 2014 and 2018, the number of law enforcement officers remained relatively stagnant (increasing just 0.4 percent). In 2021, law enforcement agencies nationwide employed an average of 2.4 officers per 1,000 residents, while New Mexico employed 2.1 officers per 1,000 residents as of the summer of 2022. To reach the national rate, the state would need to add 599 more officers, more than it has employed at any point in recent history and an overall increase to the law enforcement workforce of 13.4 percent.

Prosecution Workforce. Increased criminal case dismissals and reduced admissions to prison inhibit the certainty of justice, especially for serious violent offenses. However, many prosecutions are ended, or "dismissed," by prosecutors or courts due to insufficient evidence or issues with victim or witness cooperation. District attorney offices are dismissing more cases and reaching pleas less frequently than before the pandemic's onset. DA offices dismissed 37 percent more cases in FY22 compared with prepandemic averages, while cases disposed as pleas decreased by 32 percent in FY22 compared with prepandemic averages. Prosecutions rose on average 6 percent statewide in FY22 compared with FY21, but prosecutions remain persistently below prepandemic averages. The number of cases referred to prosecutors decreased by 3 percent on average statewide, and referrals are also far below prepandemic averages.

The decline in the number of prosecutions is a complex indicator, and it should not be interpreted as a negative indicator of district attorney performance or cause of increased crime. For example, a 2021 study found nonprosecution of nonviolent misdemeanor offense led to a 53 percent reduction in the likelihood of a new criminal complaint, and to a 60 percent reduction in the number of new criminal complaints, over the next two years. Changes to the number of district attorney prosecutions, if motivated by policy, could indicate an appropriate modification in prosecutorial discretion that acknowledges the long-term effects of prosecution; on the other hand, if motivated by a lack of resources, changes to the number of prosecutions may indicate understaffing, overly burdensome workloads, or overly complex procedural barriers.

Public Defender Workforce. At the end of the second quarter of FY23, PDD reported an agency-wide vacancy rate of 18.1 percent, including 45 vacant attorney FTE and 40 vacant core-staff FTE. In January 2022, the American Bar Association released a report on New Mexico’s public defense caseload and staffing levels. The report found PDD would need to increase its attorney FTE by over 100 percent to meet the standard of reasonably effective assistance of counsel guaranteed by the Sixth Amendment of the U.S. Constitution.

In FY22, PDD used contract attorneys for 34 percent of case assignments. When compared with contract attorneys, PDD’s in-house attorneys get more charges reduced, refer more cases for alternative sentencing placement, and take less time to resolve cases. PDD currently does not require contract attorneys to regularly close cases in the case management system, likely resulting in underreporting. This may contribute to poor outcomes for contract attorneys, but the agency also notes low base rates result in attorneys dedicating limited time to cases, which also leads to poor outcomes.

Case Types and Complexity. Statewide, prosecutors and defenders report seeing felonies as an increasing share of their caseloads. The increasing share of felonies and decreasing share of misdemeanors require more time per case and complicate the analysis of historical performance indicators. Likewise, the cause of this phenomenon is complex. Regardless, this changing mix of case types leads to more work per case at a time when vacancy rates are persistently high statewide.

Detention and Corrections Officer Workforce. During 2022, criminal justice stakeholders, including counties and PDD, raised serious concerns regarding staffing levels in county jails, which hold individuals detained pretrial and those sentenced to less than one year of incarceration. Between May 2021 and May 2022, the number of correctional officers employed by county jails fell 39 percent, with vacancy rates rising from 2 percent to 41 percent. Over the same period, the population held in jails increased 41 percent. In August, Bernalillo, Otero, Chaves, and Curry counties reported half or more of their positions were vacant. Insufficient staffing levels result in unsafe conditions for inmates, staff, and the public.

NMCD has reported high vacancy rates for several years, but population declines among state inmates have allowed the agency to reduce populations at understaffed facilities. Overall, about 28 percent of the agency’s total positions were unfilled over the course of FY22, and public and private correctional officer vacancies remained high, at 29 percent and 32 percent, respectively, for FY22. The Penitentiary of New Mexico (PNM) in Santa Fe drives public correctional officer vacancies, with an average of about 100 correctional officer positions unfilled during the course of FY22. As of November 1, 127 correctional officer positions at PNM were vacant, and overall, 34 percent of public correctional officer positions (a total of 412) were vacant.

Guadalupe County Correctional Facility (GCCF) in Santa Rosa and Northeast New Mexico Correctional Facility (NENMCF) in Clayton have operated at half capacity due to vacancies among custody staff for over a year. In spring 2021, high vacancies among correctional officers at GCCF prompted NMCD to close one of its two housing units, and as vacancy rates among correctional officers at NENMCF began to increase significantly in fall 2021, the agency similarly closed one of the two housing units at that facility, reducing the population housed at each facility to under half capacity.

High vacancy rates pose safety concerns, but low populations have enabled NMCD to adjust facility occupancy to align with staffing levels. However, this has not been possible at all facilities. While just 54 percent of the Western New Mexico Correctional Facility North's (WNMCF-N) custody staff positions were filled on September 1, the facility was 93 percent occupied on September 12, reflecting the agency's lack of flexibility—WNMCF-N is the only facility that can house medium- or maximum-security female inmates. However, the Roswell Correctional Center (RCC) also had a significant discrepancy between staffing and occupancy, with 67 percent of custody positions and 91 percent of beds filled. RCC holds minimum-security male inmates, who can also be held at five other facilities.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HB357 or similar legislation is not enacted, \$36.5 million in appropriations in the GAA will not be made due to failed contingencies.

Attachments:

1. Law Enforcement Workforce Capacity Building Fund Allocation Tiers
2. Public Attorney Workforce Capacity Building Fund Allocation Tiers – Judicial District View
3. Public Attorney Workforce Capacity Building Fund Allocation Tiers – County View

ER/BG/ne/al

Law Enforcement Workforce Capacity Building Fund Allocation Tiers

Allocation Tiers for Law Enforcement Workforce Capacity Building Fund by County

County	Population	Tier
Bernalillo	674,393	1
Catron	3,731	3
Chaves	64,629	3
Cibola	27,184	3
Colfax	12,369	3
Curry	47,999	3
De Baca	1,680	3
Doña Ana	221,508	2
Eddy	60,911	3
Grant	27,889	3
Guadalupe	4,449	3
Harding	639	3
Hidalgo	4,074	3
Lea	73,004	3
Lincoln	20,436	3
Los Alamos	19,330	3
Luna	25,532	3
McKinley	71,780	3
Mora	4,196	3
Otero	68,537	3
Quay	8,656	3
Rio Arriba	40,179	3
Roosevelt	19,019	3
San Juan	120,993	2
San Miguel	27,150	3
Sandoval	151,369	2
Santa Fe	155,201	2
Sierra	11,502	3
Socorro	16,311	3
Taos	34,623	3
Torrance	15,307	3
Union	4,107	3
Valencia	77,190	3

Source: U.S. Census Bureau, LFC files

Allocation Tiers for Law Enforcement Workforce Capacity Building Fund and Available Funding

Tier	Threshold	Number of Counties in Tier	Total Population in Tier	Available Funding (in thousands)
Tier 1	Counties with populations $\geq 500,000$	1	674,393	Up to \$7,881.3 ¹
Tier 2	Counties with populations $< 500,000$ and $\geq 100,000$	4	649,071	Up to \$11,033.8 ¹
Tier 3	Counties with populations $< 100,000$	28	792,413	At least \$12,610.0 ²

1. Assumes full amount of other expenditures are made. If other expenditures are less than their statutory maximum, the maximum for these allocations would increase.
2. Assumes full amount of other expenditures are made. If other expenditures are less than their statutory maximum, the minimum for these allocations would increase.

Source: LFC files

**Public Attorney Workforce Capacity Building Fund
Allocation Tiers - Judicial District View**

**Allocation Tiers for Public Attorney Workforce Capacity
Building Fund by Judicial District**

Judicial District	Counties	Judicial District Population	Tier
1	Santa Fe, Rio Arriba, Los Alamos	214,710	3
2	Bernalillo	674,393	1
3	Doña Ana	221,508	2
4	Mora, San Miguel, Guadalupe	35,795	3
5	Chaves, Lea, Eddy	198,544	3
6	Grant, Hidalgo, Luna	57,495	3
7	Catron, Socorro, Sierra, Torrance	46,851	3
8	Taos, Colfax, Union	51,099	3
9	Curry, Roosevelt	67,018	3
10	DeBaca, Quay, Harding	10,975	3
11	San Juan, McKinley	192,773	3
12	Lincoln, Otero	88,973	3
13	Cibola, Valencia, Sandoval	255,743	2

Source: U.S. Census Bureau, LFC files

**Allocation Tiers for Public Attorney Workforce Capacity Building Fund and Available
Funding**

Tier	Threshold	Number of Judicial Districts in Tier	Total Population in Tier	Available Funding (in thousands)
Tier 1	Judicial districts with populations $\geq 500,000$	1	674,393	Up to \$910.0 ¹
Tier 2	Judicial districts with populations $< 500,000$ and $\geq 215,000$	2	477,251	Up to \$946.4 ¹
Tier 3	Judicial districts with populations $< 215,000$	10	964,233	At least \$1,783.6 ²

1. Assumes full amount of other expenditures are made. If other expenditures are less than their statutory maximum, the maximum for these allocations would increase.

2. Assumes full amount of other expenditures are made. If other expenditures are less than their statutory maximum, the minimum for these allocations would increase.

Source: LFC files

**Public Attorney Workforce Capacity Building Fund
Allocation Tiers - County View**

**Allocation Tiers for Public Attorney Workforce Capacity Building Fund by
County**

County	Population	Judicial District	Judicial District Population	Tier
Bernalillo	674,393	2	674,393	1
Catron	3,731	7	46,851	3
Chaves	64,629	5	198,544	3
Cibola	27,184	13	255,743	2
Colfax	12,369	8	51,099	3
Curry	47,999	9	67,018	3
De Baca	1,680	10	10,975	3
Doña Ana	221,508	3	221,508	2
Eddy	60,911	5	198,544	3
Grant	27,889	6	57,495	3
Guadalupe	4,449	4	35,795	3
Harding	639	10	10,975	3
Hidalgo	4,074	6	57,495	3
Lea	73,004	5	198,544	3
Lincoln	20,436	12	88,973	3
Los Alamos	19,330	1	214,710	3
Luna	25,532	6	57,495	3
McKinley	71,780	11	192,773	3
Mora	4,196	4	35,795	3
Otero	68,537	12	88,973	3
Quay	8,656	10	10,975	3
Rio Arriba	40,179	1	214,710	3
Roosevelt	19,019	9	67,018	3
San Juan	120,993	11	192,773	3
San Miguel	27,150	4	35,795	3
Sandoval	151,369	13	255,743	2
Santa Fe	155,201	1	214,710	3
Sierra	11,502	7	46,851	3
Socorro	16,311	7	46,851	3
Taos	34,623	8	51,099	3
Torrance	15,307	7	46,851	3
Union	4,107	8	51,099	3
Valencia	77,190	13	255,743	2

Source: U.S. Census Bureau, LFC files

Allocation Tiers for Public Attorney Workforce Capacity Building Fund and Available Funding

Tier	Threshold	Number of Counties in Tier	Number of Judicial Districts in Tier	Total Population in Tier	Available Funding (in thousands)
Tier 1	Judicial districts with populations \geq 500,000	1	1	674,393	Up to \$910.0 ¹
Tier 2	Judicial districts with populations $<$ 500,000 and \geq 215,000	4	2	477,251	Up to \$946.4 ¹
Tier 3	Judicial districts with populations $<$ 215,000	28	10	964,233	At least \$1,783.6 ²

1. Assumes full amount of other expenditures are made. If other expenditures are less than their statutory maximum, the maximum for these allocations would increase.

2. Assumes full amount of other expenditures are made. If other expenditures are less than their statutory maximum, the minimum for these allocations would increase.