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FISCAL IMPACT REPORT

SPONSOR: McSorley DATE TYPED: 02/09/01 HB _____
 SHORT TITLE: Prohibit Out-of-State Inmates in NM Jails SB 316
 ANALYST: Trujillo

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB 124 and HB 413

SOURCES OF INFORMATION

LFC Files
 Children Youth and Families Department (CYFD)
 Attorney General (AG)
 Corrections Department (CD)

No Response
 Department of Finance and Administration

SUMMARY

Synopsis of Bill

SB316 prohibits the incarceration or detention of out-of-state inmates in municipal or county jails, state-run correctional facilities or privately owned correctional facilities in New Mexico. The bill’s prohibition does not apply to federal inmates or to the extent incarceration of out-of-state inmates in New Mexico is permitted by NMSA 1978, Ch. 31, Art. 5, which contains interstate compacts relating to incarceration and detention of inmates from other states.

Significant Issues

According to the AG , SB316 primarily clarifies existing law, which does not now expressly authorize state or local jails and corrections facilities – public or private – to house other states’ inmates, except to the extent permitted by the interstate compacts. The bill should describe or clarify the inmates covered by the term “out-of-state” inmates. (See Technical and Other Substantive Issues)

CONFLICT

SB316 conflicts with HB124 and HB413 (Supervision of Out-of-State Inmates) which would allow for the housing of out-of-state inmates at the discretion of the Secretary of Corrections.

TECHNICAL ISSUES

According to the AG, SB316 does not define “out-of-state inmates” whose incarceration is prohibited in NM. Federal inmates are excepted from the prohibition.

The AG suggests the coverage of the term “out-of-state inmate” should be clarified or defined to make clear whether it encompasses persons convicted in tribal courts or fugitives who have been convicted in other states, have fled to and been captured in New Mexico, and who need to be temporarily detained in New Mexico.

OTHER SUBSTANTIVE ISSUES

The AG reports SB316 essentially is a clarification of current state law. New Mexico does not have a law generally allowing state corrections facilities, county jails or municipal jails – either publicly or privately owned or operated – to house out-of-state inmates. Arguably, therefore, those corrections facilities and jails already are prohibited from housing out-of-state inmates except to the extent expressly authorized by the interstate compacts codified in NMSA 1978, Ch. 31, Art. 5. Nevertheless, this issue is not free from doubt and legislation clearly resolving it one way or the other would be helpful.

LAT/ar/njw