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## FISCAL IMPACT REPORT

SPONSOR Taylor DATE TYPED 2/25/05 HB \_\_\_\_\_

SHORT TITLE County Jail Inmate Fees for Municipalities SB 882

ANALYST Hadwiger

### APPROPRIATION (in \$000s)

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 882 would enact a new statutory section to provide that, in a class A county with a population over 300,000 (Bernalillo County), municipalities shall pay a fee to the board of county commissioners for each prisoner housed in a county-owned jail charged with municipal offenses or arrested by municipal officers. The fee shall be a reasonable fee established by the board of county commissioners and approved by the Local Government Division of the Department of Finance and Administration (DFA)

#### Significant Issues

SB882 would apply only to Bernalillo County and funding for its Metropolitan Detention Center (MDC). Current statute (Section 33-3-2C NMSA 1978) includes text that is almost identical to the proposed new section. That subsection specifies:

*"In a class A county utilizing a joint city and county jail, municipalities shall pay a fee to the board of county commissioners for each prisoner housed in the county jail charged with municipal offenses or arrested by municipal officers. The fee shall be a reasonable fee established by the board of county*

*commissioners and approved by the local government division of the department of finance and administration."*

There is a longstanding tension between Albuquerque and Bernalillo County over the question of who should pay to incarcerate prisoners in the county detention center. Currently, the MDC is operated under a joint powers agreement whereby each jurisdiction bears one-half of the operating costs. The County pays all of the cost for debt service on the new MDC facility, about \$8 million annually. At this time, each jurisdiction pays about \$21.5 million annually for MDC operating costs. When the language in Section 33-3-2C was adopted, the County did not impose the fees authorized, to some degree, out of concern that the City would withdraw from the joint powers agreement. The City and County negotiated the current plan for equal sharing of operating costs of the jail.

According to DFA, Bernalillo County officials indicate that the Bernalillo County is paying for more than one-half of the total cost of the MDC, because it must fund about \$8 million in debt service with no contribution from Albuquerque. The County notes that about 80% of the roughly 2,100 persons incarcerated in the facility are apprehended by the Albuquerque Police Department within the incorporated city; about 20% are apprehended in the unincorporated county. As such, it is reasonable that the City would bear at least one-half of the total cost of the MDC.

City of Albuquerque officials indicate that city residents comprise 80 percent of the total county population and already pay about 80 percent of the cost of the debt service. Any allocation of additional debt service to city taxpayers would have the effect of double-taxing city residents for this purpose. City officials also questioned whether other jurisdictions in Bernalillo County would be charged to house prisoners at the MDC, such as the State Police or Los Ranchos de Albuquerque.

It should be noted that enactment of SB882 would reduce the need for Bernalillo County and the City of Albuquerque to collaborate with regard to the operation of the MDC. Full participation of both jurisdictions in decisionmaking about MDC is beneficial, because jail operations have significant implications for the operations of the Albuquerque Police Department and Bernalillo County Sheriff's Office, as well as other components of the judicial system in Bernalillo County.

## **FISCAL IMPLICATIONS**

SB882 would have no direct fiscal impact on the State of New Mexico. Any increase in fees charged by Bernalillo County would result in additional revenues to the County and additional costs to the City of Albuquerque. At this time, city residents pay 100% of the City's share of MDC operating costs through city taxes, 80% of the county's share of MDC operating costs through their county taxes, and 80% of the county's cost for debt service for the MDC through their county taxes.

## **OTHER SUBSTANTIVE ISSUES**

The current JPA between Bernalillo County and the City of Albuquerque specifies that, if the unification proposal fails, the County will assume responsibility for administering the MDC. This unification vote failed in November 2004.

According to DFA, Albuquerque officials indicated that any additional charges from Bernalillo

County would result a reduction in other governmental services to city residents.

**POSSIBLE QUESTIONS**

1. What is the status of negotiations between Bernalillo County and the City of Albuquerque regarding continued funding of the MDC in the aftermath of the unification election?

**DH/yr**