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FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/08

SPONSOR McSorley LAST UPDATED _____ HB _____

SHORT TITLE Measure Fiscal Impact of Criminal Penalties SM 47

ANALYST Peery-Galon

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1	\$0.1	\$0.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)
 Public Defenders Department (PDD)
 Administrative Office of the Courts (AOC)
 New Mexico Sentencing Commission (NMSC)

No Responses Received From

Administrative Office of the District Attorneys
 Legislative Finance Committee

SUMMARY

Synopsis of Bill

Senate Memorial 47 requests the Legislative Finance Committee (LFC) and the New Mexico Sentencing Commission (NMSC) collaborate on establishing a method, if feasible, to measure the fiscal impact of legislation that increases or decreases criminal penalties, creates new crimes, imposes or removes mandatory minimum terms of imprisonment, requires specific technology for monitoring probationers or parolees, or modifies the law in such a way that the time served in prison or on probation or parole increases or decreases. The LFC and NMSC is to determine what computer models, technology, research, data and personnel are necessary to enable the LFC to generate fiscal impact reports in a timely manner on legislation that affect criminal penalties. The LFC and NMSC are to report the results to their study to the appropriate interim legislative committee during the 2008 interim.

FISCAL IMPLICATIONS

NMCD states the proposed legislation has no direct fiscal impact to the department. However, NMCD notes the memorial would be enormously beneficial to the department, if it ultimately leads to fiscal impact reports clearly showing the exact financial impact that any new crime bill would have on the Corrections Department.

AOC states there will be an indirect fiscal impact upon the judiciary whose staff will be asked to assist the LFC and NMSC in establishing a method to measure the impact of appropriate legislation.

SIGNIFICANT ISSUES

NMCD states while the memorial does not require that the department be given sufficient appropriations to cover the cost of any new crime bill passed by the Legislature, it certainly could lead to the Legislature being better informed about just how much a new crime bill will cost before voting on the bill. NMCD notes the Legislature could still choose to pass a new crime bill even if the financial impact on the Corrections Department was substantial, and without making any additional appropriations to the department.

PDD states the memorial would greatly assist the department in estimating any increase in annual operating costs as any bill increasing terms of imprisonment is likely to correlate into an increased number of clients proceeding to trial or appealing their convictions.

AOC notes it regularly reports during the legislative session to the LFC regarding the fiscal impact of proposed legislation upon the courts.

NMSC states it has already conducted research on issues addressed in the memorial.

PERFORMANCE IMPLICATIONS

NMCD states the memorial could eventually help the department better perform its prison and probation/parole related services, if it leads to appropriate levels of funding for the department.

AOC states the proposed legislation will have a minimal, if any, impact on performance measures as they relate to judicial budgeting.

NMSC states the request in the memorial will add to a series of meetings to the body of work already being accomplished by the commission.

OTHER SUBSTANTIVE ISSUES

In the 2007 legislative session, the Legislature passed and the governor pocket vetoed House Bill 296. House Bill 296 required the New Mexico Sentencing Commission to prepare financial impact statements for legislative bills which: create or repeal new crimes punishable by imprisonment, increase or decrease the period of imprisonment authorized for an existing crime, increase or decrease mandatory minimum terms or imprisonment, and modify the law governing the release of prisoners in such a way that the time served in prison will be increased or decreased. The fiscal impact statements were to reflect the following: increase estimate of

annual operating costs for the New Mexico Corrections Department attributable to the bill if it became law, increase estimates of the annual operating costs of the bill over the next six years and report the dollar impact associated with the most expensive year, and details concerning any increase or decrease in inmate population. House Bill 296 required that an appropriation be made from the general fund for any law that a fiscal impact statement was prepared and would increase prison time. NMSC was to complete fiscal impact statements by January 15th for proposed legislation submitted no later than December 1st of the prior year. House Bill 296 would have appropriated \$70 thousand to the NMSC to pay salaries and benefits to staff for the preparation of fiscal impact statements. The bill also would have created the Criminal Justice Special Fund in the state treasury. Money in the fund was to be subject to appropriation by the legislature for criminal justice purposes, including operational costs of the corrections department, courts, district attorneys and the public defender department.

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