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## FISCAL IMPACT REPORT

SPONSOR: SFC DATE TYPED: 02/26/01 HB \_\_\_\_\_  
 SHORT TITLE: Uses of County Jails SB 847/SFCS  
 ANALYST: Padilla

### APPROPRIATION

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

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Bill

The Senate Finance Committee substitute for Senate Bill 847 amends statute to require that any jail in a county be used or be available for the detention of persons who have been charged with crimes in that county or who have been committed by competent authorities.

#### Significant Issues

The bill appears to establish that there can be more than one jail, perhaps including private facilities or municipal jails, in a county that are responsible for people who commit offenses in the county and for people who have been committed there. The bill also changes the requirement that jails “be used” for detention of these prisoners, to a requirement that they “be available” for detention.

Current statute (NMSA 33-3-3) provides that “*the jail* in each county shall *be used* for the retention [detention] of every person or persons who, within the same county, shall be charged with any crime. . . “

The effect of the changes that this bill makes is unclear. The bill may have some effect on the status of a private correctional facility in a county.

Currently, there is at least one private county correctional facility (in Lea county) that does not house county inmates. The procurement code exemption that was used to build the facility applied to local jails. Current statute appears to require that these jails be used for the detention of local inmates.

The Independent Board of Inquiry that evaluated the New Mexico Corrections Department in January, 2000, reporting the following:

The decision to contract for County “jails” was a necessary maneuver because the procurement code exemption only applies to contracts for the operations of jails, not prisons. However, neither the Lea nor Guadalupe facilities was designed as a jail, neither houses any County inmates, and neither meets the jail standards promulgated by the American Correctional Association.

Because this bill was substituted on February 24, 2001 (a Saturday), there was no time to receive analysis or input from state agencies and the Attorney General.

### **FISCAL IMPLICATIONS**

This bill does not contain an appropriation. It is not possible to make a statement about fiscal impact because the bill’s effect is unclear.

### **POSSIBLE QUESTIONS**

1. Does the bill have the effect of requiring *municipal* jails to be available for persons charged with offenses in the county or for persons committed by competent authorities?
2. Would a statutory definition of “county jail” help clarify the effect of this bill?

LP/prr