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FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/06

SPONSOR Vigil LAST UPDATED _____ HB 777

SHORT TITLE SAN MIGUEL COUNTY PRISONER HOUSING SB _____

ANALYST Hadwiger

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$298.6	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Corrections Department (DOC)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 777 appropriates \$298.6 thousand from the general fund to the Local Government Division (LGD) of the Department of Finance and Administration (DFA) in FY07 to reimburse San Miguel County for the costs of incarcerating state prisoners in county facilities.

FISCAL IMPLICATIONS

The appropriation of \$298.6 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY07 would revert to the general fund.

SIGNIFICANT ISSUES

Several counties (Colfax, Torrance, San Miguel, Taos, Rio Arriba, Socorro, San Juan Curry, Los Alamos) have legislation pending this year that would reimburse them for the cost of housing prisoners that are awaiting state custody for various reasons. Collectively, these bills reflect concerns that counties are getting stuck with the bill for housing prisoners who have violated parole or are charged with a parole violation; while on parole, are charged with a violation of local,

state, tribal, federal or international law; are awaiting transportation and commitment to the corrections department following the pronouncement of a judgment, sentence or an order of confinement; are charged with a violation of probation by the corrections department or by a district court; are sentenced, ordered or removed by the district court to incarceration in a county detention facility for a felony conviction; or are incarcerated on the basis of an arrest-and-hold order on a warrant issued by the corrections department. DFA indicated concern about the structure of some of the other bills, which would appropriate funds to the Board of Finance, which lacks a process for distributing funds to local governments. This bill is preferable to that approach in that funds are appropriated to the Local Government Division; however, DFA indicates that a better approach might be to appropriate the funds directly to the Department of Corrections, which is best able to determine the prisoners who are properly categorized for reimbursement.

DFA indicated counties currently are required to apprehend and hold violators of state offenses. These individuals are guilty of violating state offenses such as parole violations. County officials have tried unsuccessfully in the past to collect these expenses from the DOC. The amount of the appropriation (\$298,567) is the amount of expenses that San Miguel County had for offenses in fiscal year 2005.

The Corrections Department (DOC) indicated concern that the language in this bill might prevent expenditure of the appropriation for its intended purpose. In particular, DOC noted that similar bills from other individual counties (requesting appropriations for individuals county facilities to pay the incarceration costs of housing certain inmates) do not use the term state prisoner, but have indicated that the individuals covered for payment are those charged with or convicted of violations of state law who have allegedly violated their conditions of parole (including being charged with committing a new crime while on parole); violated their conditions of probation; are awaiting transportation and commitment to DOC following the pronouncement of a judgment and sentence; are placed in the county detention facility by the judge due to a felony conviction; and are incarcerated on the basis of an arrest and hold order or warrant issued by the DOC. DOC assumed that San Miguel County is, via this bill, also seeking payment for these same categories of inmates or prisoners, although a good number of these prisoners would not be state prisoners (with state prisoners defined as those prisoners that end up being sent to the custody of the DOC for incarceration in a Department operated prison or in a privately operated prison in Santa Rosa or Hobbs that houses inmates sent to the custody of the DOC).

ADMINISTRATIVE IMPLICATIONS

DOC indicated there may be a minimal to moderate administrative burden placed on the Department because it may have to provide certain information (such as the names of individuals on probation or parole who have an arrest and hold order placed on them, etc.) to DFA to help DFA verify the incarceration costs for purposes of helping DFA pay the incarceration costs to the county. DOC pledged to make every reasonable effort to absorb this administrative burden without adding new staff, but indicated it is difficult to determine the exact amount of administrative burden placed on the department by this bill. The bill could increase the administrative costs associated with the department working with DFA to help DFA verify and process the county's bills, and these costs could be significant. There is no appropriation in the bill to the department to help offset or absorb these increased administrative costs.

DFA indicated the appropriation would be administered by LGD/DFA as a reimbursable expenditure. Currently, LGD administers grants and other monies to counties on a reimbursable basis

and has a process in place to do this.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB777 relates to HB735, SB732 and several other bills that would appropriate funds to counties for the cost of housing state prisoners or prisoners under other definitions.

OTHER SUBSTANTIVE ISSUES

DFA noted that detention costs for counties increase rapidly from year to year. According to DFA, state law violators are individuals who:

- 1) have violated parole or are charged with a parole violation;
- 2) while on parole, are charged with a violation of local, state, tribal, federal or international law;
- 3) are awaiting transportation and commitment to the corrections department following the pronouncement of a judgment, sentence or an order of confinement;
- 4) are charged with a violation of probation by the corrections department or by a district court;
- 5) are sentenced ordered or removed by the district court to incarceration in a county detention facility for a felony conviction;
- 6) are incarcerated on the basis of an arrest-and-hold order on a warrant issued by the corrections department.

ALTERNATIVES

DOC suggested one alternative is to use a more global approach that has the potential to help all of the county facilities (such as the approach used in HB 264 and SB 419) instead of trying to help just one county.

Another alternative might be to consider language consistent with that in other similar bills offered by other counties whereby the county would be reimbursed for the costs of housing individuals charged with or convicted of a violation of state law who:

- (1) have violated parole or are charged with a parole violation;
- (2) while on parole, are charged with a violation of local, state, tribal, federal or international law;
- (3) are awaiting transportation and commitment to the corrections department following the pronouncement of a judgment, sentence or an order of confinement;
- (4) are charged with a violation of probation by the corrections department or by a district court;
- (5) are sentenced, ordered or removed by the district court to incarceration in a county detention facility for a felony conviction; or
- (6) are incarcerated on the basis of an arrest-and-hold order on a warrant issued by the Corrections Department.

Another alternative would be to amend the bill with broader language, i.e. “for San Miguel County incarceration expenses.”

DH/mt