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FISCAL IMPACT REPORT

	ORIGINAL DATE 1/27/07		
SPONSOR	Martinez	LAST UPDATED	HB
	Enacting the County Detention Facility		
SHORT TITLE	Reimbursement Act	SB	192
			ANALYST Propst

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$5,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 316 and SB 410

Duplicates HB 357

Duplicates an appropriation in the General Appropriation Act for \$5,000.0.

SOURCES OF INFORMATION

LFC Files

Responses Received From

NM Department of Corrections

SUMMARY

Enacting the County Detention Facility Reimbursement Act; Providing Reimbursement to Counties for the Costs of Incarceration of Certain Persons Convicted of a Felony; Creating the County Detention Facility Reimbursement Fund; Making an Appropriation.

Senate Bill 192 creates a new County Detention Facility Reimbursement Fund in the State Treasury, to be administered by, and distributed through the State Treasurer. The bill appropriates \$5,000.0 from the General Fund to the new Fund for expenditure in FY08 and subsequent years. Money in the Fund may not be used for administration of the Fund.

FISCAL IMPLICATIONS

The appropriation of \$5,000,000 contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of FY08 reverts to the General Fund.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

Money in the fund is to be used for reimbursing counties for the incarceration of a “felony offender.” A felony offender is defined as a person convicted of a felony and sentenced to confinement in a facility designated by the Correction Department who (1) has been released from confinement and is a dual supervision offender (on both probation and parole) and has violated his parole or is charged with a parole violation; or has violated probation or is charged with a probation violation; or while on parole, is charged with a violation of local, state, tribal, federal or international law; or (2) has been released from confinement and is serving a parole term and has violated his parole or is charged with a parole violation; or while on parole, is charged with a violation of local, state, tribal, federal or international law; or (3) is awaiting transport and commitment to the Corrections Department following the revocation of parole or a sentencing hearing for a felony conviction.

The bill uses a formula to calculate the distribution amount for each county, and requires the Sentencing Commission to provide certain information to the State Treasurer each year so that the Treasurer can then distribute the money in the Fund pursuant to the formula. In general, counties that incarcerate more felony offenders will receive more money out of the Fund (see table below for estimated distribution to counties).

Distribution of Appropriation for County Detention:

	Distribution	Percent of Estimated Cost		Distribution	Percent of Esti- mated Cost
BERNALILLO	\$ 1,175,926	24%	MCKINLEY	101,042	2%
CATRON	8,590	0%	MORA	-	0%
CHAVES	78,727	2%	OTERO	128,156	3%
CIBOLA	205,726	4%	QUAY	42,190	1%
COLFAX	32,353	1%	RIO ARRIBA	88,394	2%
CURRY	147,351	3%	ROOSEVELT	44,633	1%
DE BACA	11,449	0%	SAN JUAN	394,508	8%
DONA ANA	526,001	11%	SAN MIGUEL	100,089	2%
EDDY	178,413	4%	SANDOVAL	335,386	7%
GRANT	51,514	1%	SANTA FE	499,710	10%
GUADALUPE	18,044	0%	SIERRA	8,223	0%
HARDING	-	0%	SOCORRO	28,459	1%
HIDALGO	23,456	0%	TAOS	34,667	1%
LEA	283,170	6%	TORRANCE	78,307	2%

LINCOLN	82,826	2%	UNION	5,992	0%
LOS ALAMOS	26,675	1%	VALENCIA	148,870	3%
LUNA	81,152	2%			

* Mora and Harding Counties use San Miguel or De Baca facilities.

Total Amount Distributed Using NMSC Formula	\$	4,970,000
NMSC Data Maintenance		30,000
TOTAL APPROPRIATION	\$	5,000,000

PERFORMANCE IMPLICATIONS

Instead of requiring that the Corrections Department administer the Fund, SB 192 requires that the State Treasurer administer the fund and pay the counties for the incarceration costs of housing certain offenders. The Corrections Department has previously suggested that the Local Government Division of DFA administer the Fund, and agrees that the Fund would be best administered by DFA or the State Treasurer. The Corrections Department reports that the bill may increase the Corrections Department's administrative or fiscal costs, as discussed below in the Administrative Implications section.

ADMINISTRATIVE IMPLICATIONS

The Corrections Department reports that SB 192 bill could have no or only minimal administrative effect on the Department since the State Treasurer will administer the fund and pay the bills. However, if the State Treasurer routinely requests a large amount of information from the Corrections Department in an attempt to ensure that the counties are properly counting the number of felony offenders they are incarcerating, this could place a negative administrative burden on the Department. The bill appropriates no money to the Department to help offset the administrative costs associated with the Department working with the State Treasurer to help the Treasurer verify and process the counties' actual number of felony offenders, and these costs could be substantial.

However, if the Treasurer will be able to perform its duties under this new law without any or any significant input or help from the Corrections Department, there will little administrative or fiscal impact on the Department.

TECHNICAL ISSUES

The bill excludes \$30,000 from the total amount of money in the Fund each year that the counties can receive. It appears that this money is intended to be used by the Sentencing Commission to perform its duties under the law. This should be clarified in the bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 192 duplicates HB 357 and relates to HB 316 and SB 410. Additionally, SB 192 duplicates a provision of the General Appropriations Act for FY08 which contains a \$5,000,000 recurring, General Fund appropriation for the same purpose.

The major difference between SB 192 and SB 410 is that SB 410 contains a provision allocating 30 percent of the fund to counties other than Class A counties that are designated by DFA as needing additional resources due to inadequate base revenues. Also, SB 410 identifies the Local Government Division of DFA to administer the program instead of the State Treasurer.

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