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FISCAL IMPACT REPORT

ORIGINAL DATE 02/23/11

SPONSOR Lopez LAST UPDATED _____ HB _____

SHORT TITLE Inspection of Jails SB 463

ANALYST Segura

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 426

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

Senate Bill 463 repeals Section 33-3-4 NMSA 1978, which assigns responsibility of jail inspectors to counties or municipalities and requires inspections of the jails twice a year for cleanliness and discipline. SB 463 requires the sheriff, jail administrator or independent contractor to provide a list of names, ages and cause of imprisonment to the county or municipality, who then must report to the District Court if any laws at the jail have been broken. The District Court must require suit to be brought against the sheriff, jail administrator or independent contractor for the violation and failure in the duty.

FISCAL IMPLICATIONS

There is no appropriation contained in SB 463. The repeal of Section 33-3-4 may result in a small fiscal saving for counties or municipalities by not having to do mandatory inspections and reporting to the District Courts.

SIGNIFICANT ISSUES

Jail standards, which include inspection programs, have been adopted in approximately 32 states. National Institute of Corrections, *Jail Standards and Inspection Programs*, April 2007. Nationally, most jails are locally operated, but many states have determined that there is an overriding state interest in providing oversight and support to local jails to maintain the health

and well-being of citizens and offenders. New Mexico has adopted Chapter 33, Article 3 on Jails. The statute being repealed in SB 463, Section 33-3-4, requires that the jails be inspected for cleanliness and discipline. Section 33-3-5 requires that sheriff, jail administrator or independent contractor keep their respective jails clean and healthy. The policy question is whether inspections must be mandatory and reported to the local government.

Most jail requirements originate in the Eighth Amendment of the US Constitution, which provides that cruel and unusual punishment shall not be inflicted. Though there is not federal requirement that local jails be inspected, there is a large body of case law that jails have certain amenities and meet certain requirements. Regular inspections are the avenue for a local body to determine whether they are meeting the minimum requirements. Additionally, if federal prisoners are housed, federal guidelines must be met.

POSSIBLE QUESTIONS

Do most counties have a regular inspection program?
Are inspections required to house federal prisoners?

RS/bym