

LFC Requester:	Theresa Rodgers
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**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date February 3, 2016
Original **Amendment** **Bill No:** SB 260
Correction **Substitute**

Sponsor: Michael Padilla **Agency Code:** 305
Short Title: Jail Transport to Treatment Fund **Person Writing:** Zach Jones
Phone: 505-252-4950 **Email:** zjones@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
X	X	X	X

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
X	X	X	X	X

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	X	X	X	X	X	X

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: n/a

Duplicates/Relates to Appropriation in the General Appropriation Act: n/a

SECTION III: NARRATIVE

BILL SUMMARY

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

Synopsis:

SB 260 requires the assessment of a \$5.00 “Transport to Treatment Fee” upon every person convicted of any offense charged and brought under state statute in any state court. The fee is intended to defray costs a local sheriff expends transporting offenders from county jails or Corrections facilities to court-ordered treatment programs, and incentivizes local sheriffs taking an active role in delivering defendants housed in county jails to court-ordered treatment facilities. Currently, when a court orders a defendant, housed in a county jail, to participate in an out-of-custody treatment program, the court must release a defendant on their own recognizance and expect that such defendant will voluntarily travel to and enroll in the ordered program. Local sheriffs and law enforcement have limited resources to ensure that a person ordered to treatment, and out of custody, will actually travel to and arrive at the facility ordered by the court. Similarly, when the court orders a defendant to travel from their home county to a remote county where the treatment program is located, many defendants lack the financial resources to afford the costs associated with such travel. This fee would help provide law enforcement and criminal defendants with the necessary funds to ensure compliance with any court order.

Funds are collected and transmitted monthly to the Department of Finance and Administration and then credited with the State Treasury. To be eligible for reimbursement, a local sheriff submits a voucher to the DFA’s Local Government Division.

Any money remaining in the fund each year remains in the fund, and is not transmitted to the General Fund. SB 260 does not limit the number of times a sheriff can seek funds or the amount that can be requested.

FISCAL IMPLICATIONS

SB 260 does not require an appropriation, as it is funded entirely by costs from convictions for violation of any state law.

SIGNIFICANT ISSUES

The fee is in line both substantively and logistically with other criminal fees. See NMSA 1978,

Sections 31-12-1 to -13. The fee is substantially similar in content to the Crime Laboratory Fee, NMSA 1978, Section 31-12-9 (1991), which creates a fee, designates a fund, and provides rules for appropriation. That law was enacted in 1981 and appears to have never been challenged.

Legislation regarding transportation of offenders to treatment was identified as a recommendation by the Office of the Attorney General's Violent Crime Case Review Team as incorporated in the "VCCRT" Final Report.

PERFORMANCE IMPLICATIONS

OAG prosecutors would be required to provide for the assessment of this mandatory fee on all future sentencing documents.

ADMINISTRATIVE IMPLICATIONS

n/a

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

n/a

TECHNICAL ISSUES

n/a

OTHER SUBSTANTIVE ISSUES

n/a

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.