

County Government

BIPO

December 2024



NEW MEXICO
COUNTIES

33 STRONG

History of Counties



- Counties are one of America's oldest forms of government dating back to 1634 when the first county governments (shires) were established along the eastern shores of Virginia (brought from England).
- Counties were among the earliest units of local government established in the Thirteen Colonies that would become the United States.
- In **England** counties serve a dual function — acting as **administrative arms of the crown** as well as the citizens' local government. Power in the shire/county was shared between the “shire-reeve,” or sheriff, and the justice of the peace.

History of Counties



Despite the long history of counties in the English settlements of North America, the framers of the new nation's Constitution did not provide for local governments. They left the matter to the states.

Subsequently, state constitutions conceptualized county governments as arms of the state.

County Government Authority



County governments derive authority from the state. Counties are granted the same powers as municipalities except for those powers that are inconsistent with statutory or constitutional limitations placed on counties.

Granted powers:

necessary and proper to provide for the safety,
preserve the health,
promote the prosperity and
improve the morals, order, comfort and convenience of
any county or its inhabitants.

May enact any ordinance to discharge these powers so long as they are not inconsistent with limitations imposed by the state.

N.M. Stat. Ann. § 4-37-1

Organization of County Government



- Board of County Commissioners (BOCC) acts as the sole legislative decision-making body:
 - annual budget
 - approving tax levies
 - Issuing bonds
 - enacting ordinances
- BOCC has significant appointive, administrative, and regulatory powers.
- BOCC also acts as the sole executive decision-making body for counties.

Organization of County Government



Examples of the executive powers granted to the BOCC:
include:

- hire a County Manager to perform the administrative oversight of the county including personnel matters
- set salaries for county employees
- care for county property
- make appointments to boards and commissions
- grant certain licenses and regulate certain activities
- perform several financial management functions
- maintain a variety of county services, including those provided through intergovernmental agreements approved pursuant to the Joint Powers Agreements Act, (§11-1-1 through 7 NMSA)

Organization of County Government



While the BOCC serves as the governing body of the county, they must also cooperatively share their power with other elected county officials in a number of different aspects:

- Assessor
- Clerk
- Sheriff
- Treasurer
- Probate Judge.

Each elected office is organizationally equal with a few very specific exceptions such as the BOCC must serve in specific oversight capacity when acting as the Canvassing Board or the Board of Finance.

Each office must work together towards the common good of the county.

County Manager



The division of labor between the BOCC and the County Manager is simple and straightforward:

- The County Commission establishes policy for the county
- The County Manager and county staff implement policy and are responsible for day-to-day operations of county government.

Understand the pitfalls and consequences of behaving like a supervisor as a policymaker.

County Manager



While it may be tempting to get involved with personnel matters, especially when an employee comes to you directly, do not fall into the trap of reacting to one-side of the story.

Employee matters belong in the hands of the County Manager, your HR Department, and your legal counsel.

Policy Making & Transparency



The New Mexico **Open Meetings Act** (OMA) (NMSA§ 10-15-1 through § 10-15-4) holds that:

- Representative government depends upon an informed electorate
- Public entitled to the greatest possible information regarding affairs of government and the official acts of public officers and employees; and
- Providing such information is an essential function of government and an integral part of the routine duties of public officers and employees (§14-2-5 NMSA)
- Identifies the meetings that fall under the law, public notice requirements for meetings, and proper issuance of agendas, minutes, and closed meetings.
- Also covered in the Act are remedies, penalties, and exceptions to the law.
- (NMSA 10-15-1 (H) exceptions).

Policy Making & Transparency



In summary, under the Open Meetings Act:

- Agendas must be posted in advance.
 - Meeting notice must include an agenda or where the public can obtain an agenda
- Notice must be given before meeting or taking action.
 - Must contain a list of items of business to be discussed or transacted at meeting
- Must be made available to public 72 hours in advance of the meeting
 - NO ACTION may be taken at meeting unless the item appears on the agenda and is made available 72 hours in advance of the meeting
 - Emergencies may allow for a limited exception to this rule (consult your county attorney)
- The Public has a right to attend meetings
- The Public has a right to minutes

Policy Making & Transparency



The **Inspection of Public Records Act** (IPRA) (§14-2-1 through §14-2-21 NMSA), serves as New Mexico's version of the Federal Freedom of Information Act and is designed to provide the public with access to virtually all public records.

Such a law is intended to see that all work and action of the government is visible to the public. Of course, there are some limited restrictions on what is open.

For more information on both laws, please see the New Mexico Attorney General's compliance guides which may be downloaded from the NM Attorney General's Office website.

Commission Meetings



Rules of Procedure:

- Each elected BOCC has the right to adopt rules to govern how their meetings will be conducted, and to change them as needed.
- Each Commissioner should become familiar with basic parliamentary procedure.
- The object of any set of rules, such as Robert's Rules of Order, is to assist an assembly in accomplishing the work it was designed to do, in the most efficient and least contentious manner possible.

Commission Meetings



The meeting is led by the **Chair** whose role is to move the agenda, keep order, and facilitate the business of BOCC

To transact official business, a majority of the Commissioners must be present as a **quorum** (§4-38-2 NMSA). Without a quorum, no business may be discussed or decided upon.

The **County Clerk**, or designee, must be present at all meetings to record the proceedings (§4-40-3 NMSA).

The **County Manager** and the administrative staff assist with setting the agenda, providing all supporting materials, advertising the meeting, etc.

Public Managers/Administrators provide technical support and professional services to elected and appointed officials, and implement adopted policy

Ethics are Essential



- Trust in government depends upon the belief that it will keep its promises, perform diligently and competently, give out truthful and complete information, act transparently, distribute public benefits and burdens fairly, and use publicly funded resources for the benefit of the community.

Ethics are Essential



Universal Ethical Principles:

Trustworthiness

- Responsibility
- Compassion
- Respect
- Fairness
- Loyalty

In other words,

Treat Others as You Would Yourself Wish to Be Treated.

Ethical Principles for Public Servants



- Public service is a trust to advance public interests, not personal gain.
- Decisions are made on the merits, free of partiality or prejudice and unimpeded by conflicts of interest.
- Public officials are responsible for safeguarding public confidence in the integrity of government by avoiding appearances of impropriety or conduct unbecoming a public servant.

Ethical Principles in New Mexico Law



- **Governmental Conduct Act** is the primary law governing ethical conduct by officials of state and local governments. NMSA §10-16-1 et seq. 1978. The Attorney General has published a Compliance Guide to explain the provisions of the Governmental Conduct Act and it may be found online.
- **Whistleblower Protection Act**, NMSA §10-16C-1 et seq. 1978, protects public employees against retaliation for disclosing unlawful or improper conduct at their public agencies.
- **OMA & IPRA**
- **The State Procurement Code**, NMSA §13-1-28, provides additional ethical requirements relating to purchasing and contracting.
- **County Ordinances?**

Conflict of Interests



- The Governmental Conduct Act, Criminal Laws, and the Procurement Code contain numerous restrictions to prevent people from using their public position to unlawfully benefit themselves, family or friends.
- Cannot be involved in hiring or contracting decisions from which you or close family members may benefit.
- The first step to overcoming ethical problems arising from conflicts is to disclose any conflicts fully to the appropriate management personnel.

Abuses of Power



- Public officials cannot take advantage of their authority to harass other people, improperly gain political advantage, or seek unauthorized special favors.
- Examples:
 - sexual harassment or other forms of bias
 - offering or withholding public services based on the political affiliations
 - avoiding criminal citations because of one's official position;
 - directing the use of county facilities for personal or political events;
 - directing county employees to work on the official's property, especially during ordinary work hours.

Politics



- When public officials campaign for office, it is unethical to use public resources or employment status in support of one's election or other political objectives.
- Officials are prohibited from requesting, or even "advising," any employee to contribute to or to work on a political campaign

Consequences of Ethical Breaches



Decisions with ethical consequences often come with little warning and under intense pressure, especially for leaders with weighty responsibilities.

The consequences of being ethical are sufferable versus being unethical:

- Administrative sanction
- Civil Actions
- Criminal prosecutions
- No insurance coverage
- Serious harm to the public interest and to citizen confidence in government.

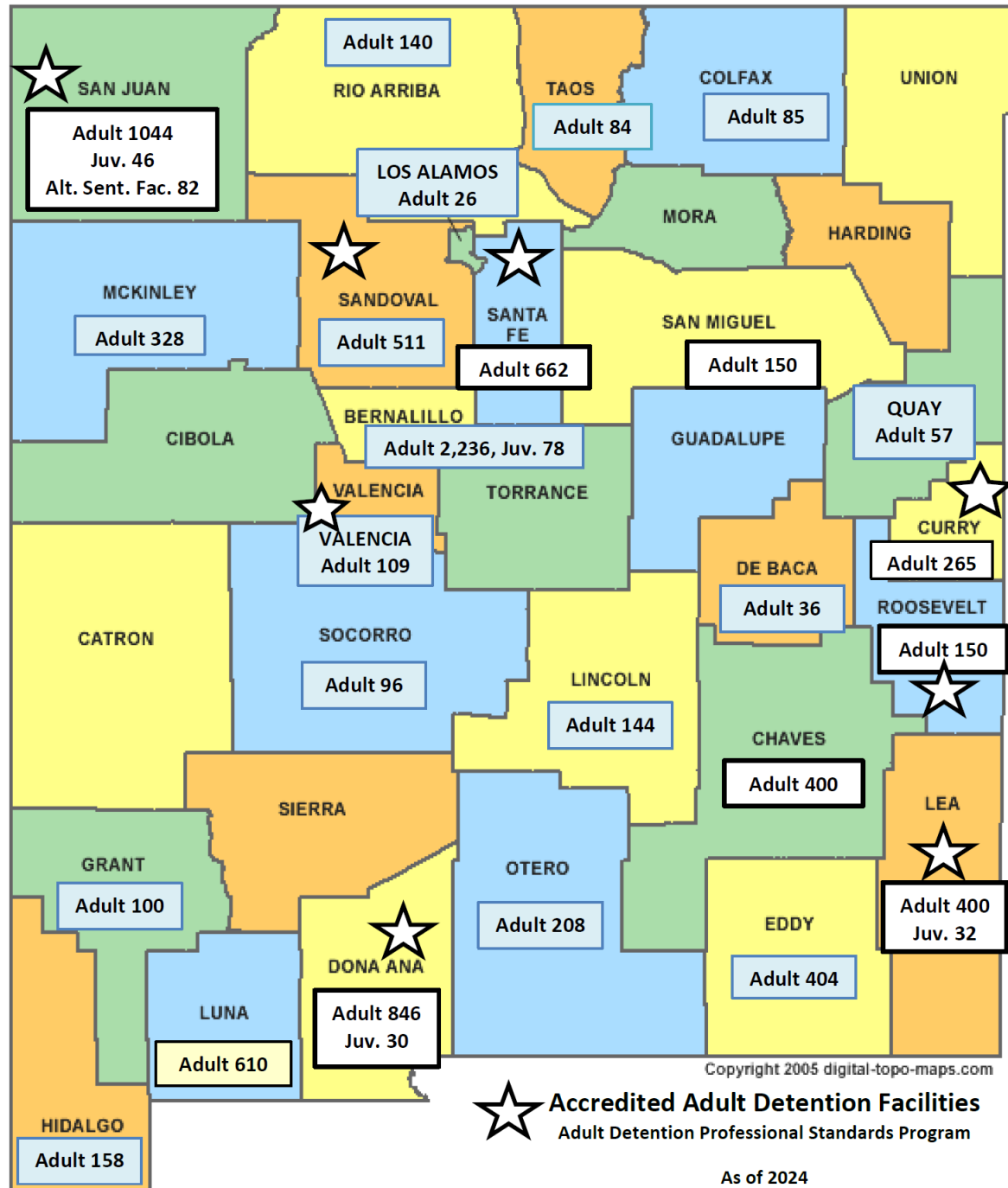


Challenges facing County Jails

Counties spending \$1 in every \$3 on detention

NM County Detention Facilities' Design Bed Capacity & Accreditation Status

NM Detention Accredited Facilities & Design Bed Capacity



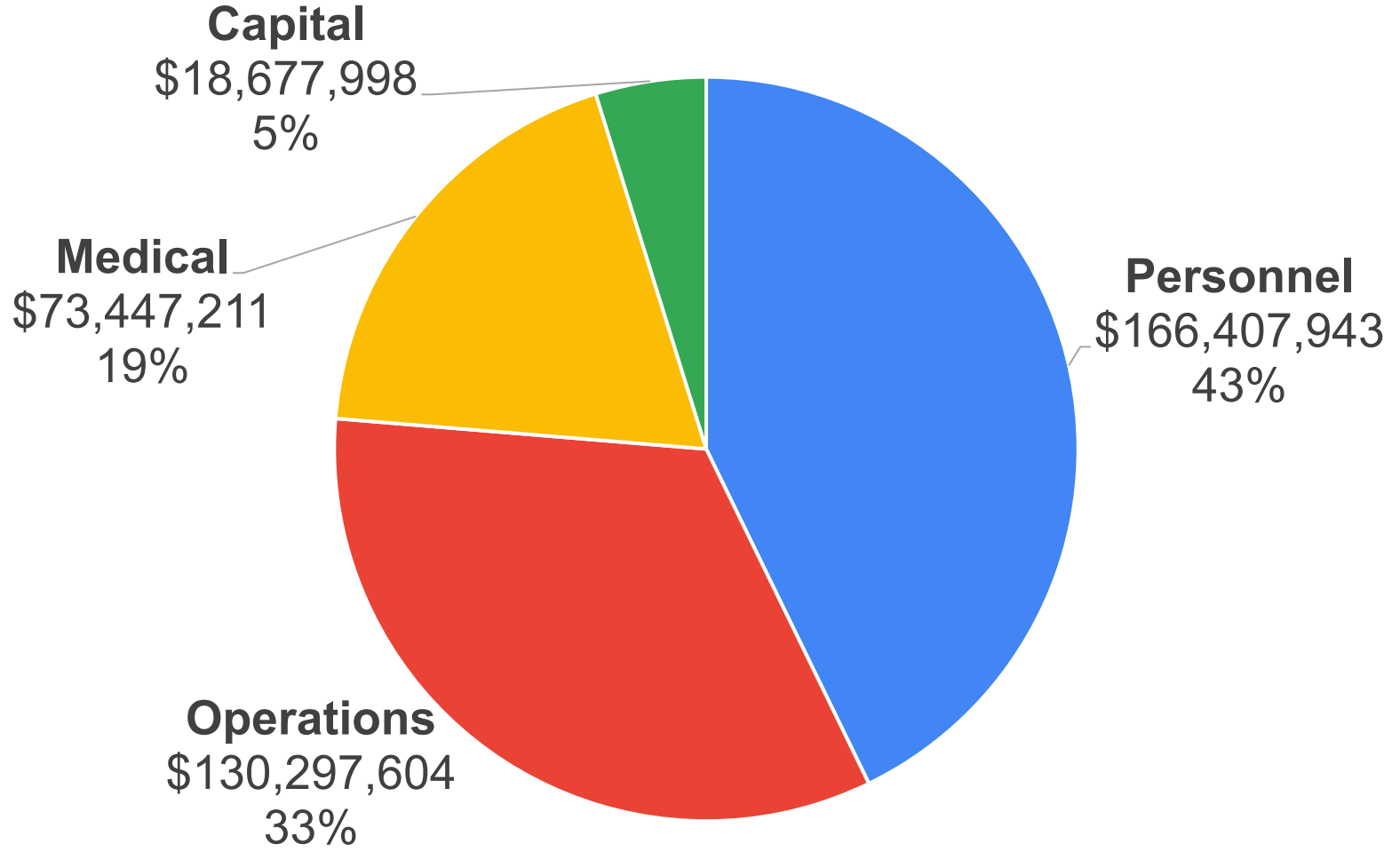
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Accredited Adult Detention Facilities
Adult Detention Professional Standards Program

As of 2024

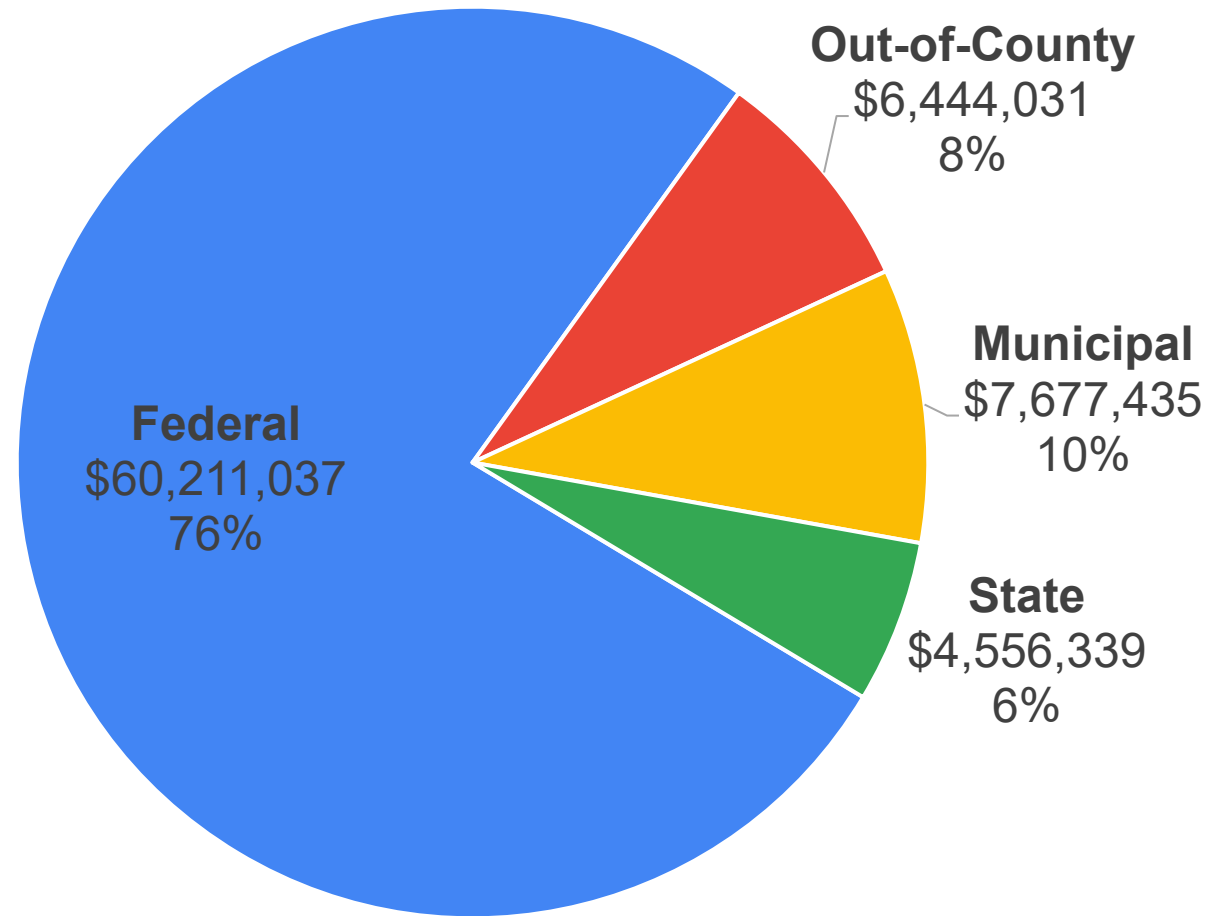
**FY24
Cost to
Operate NM
County Jails
\$389 Million**

FY 24 Expenditure Shares of County Detention
Budget Grand Total

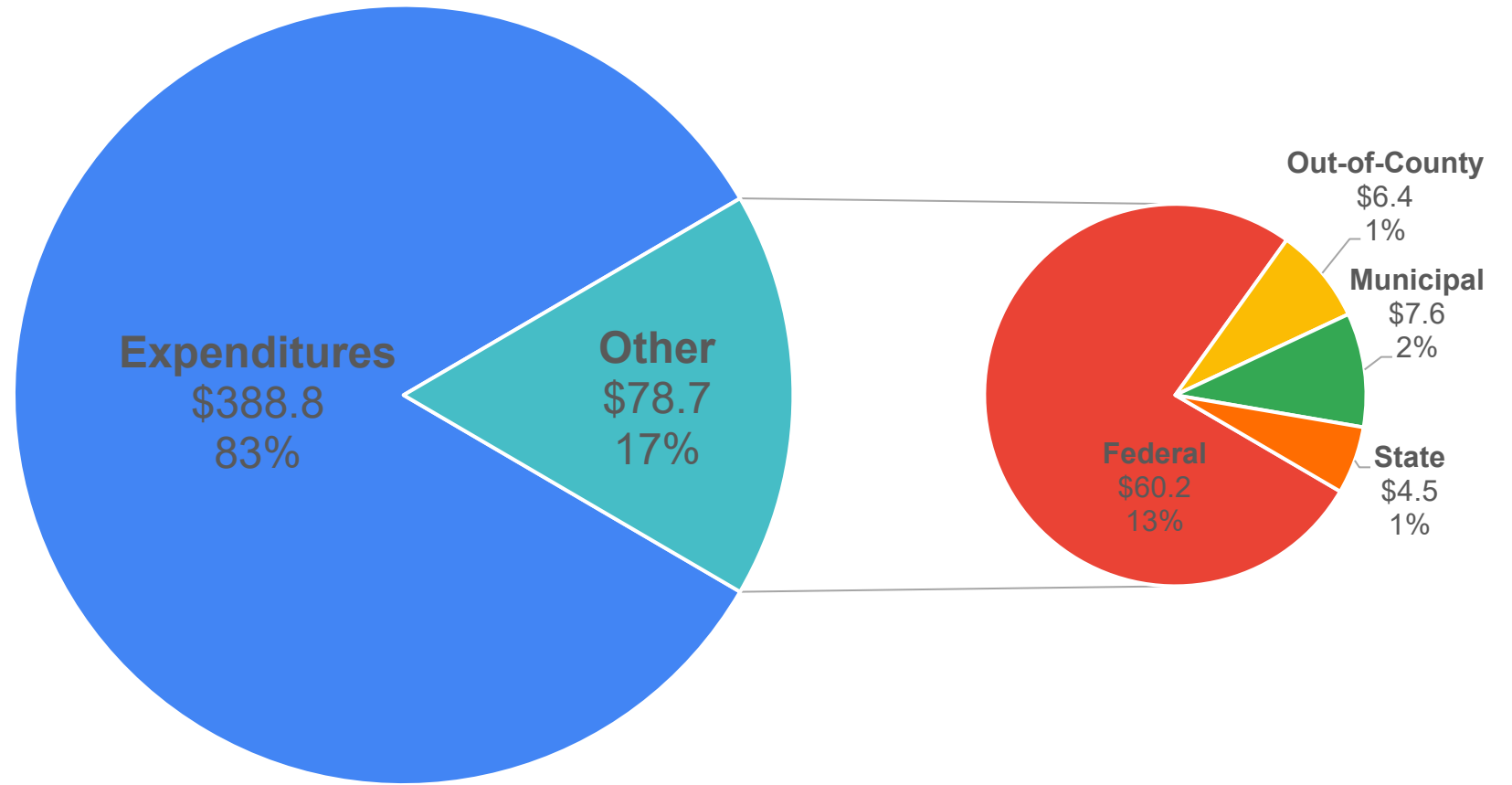


Statewide Revenue

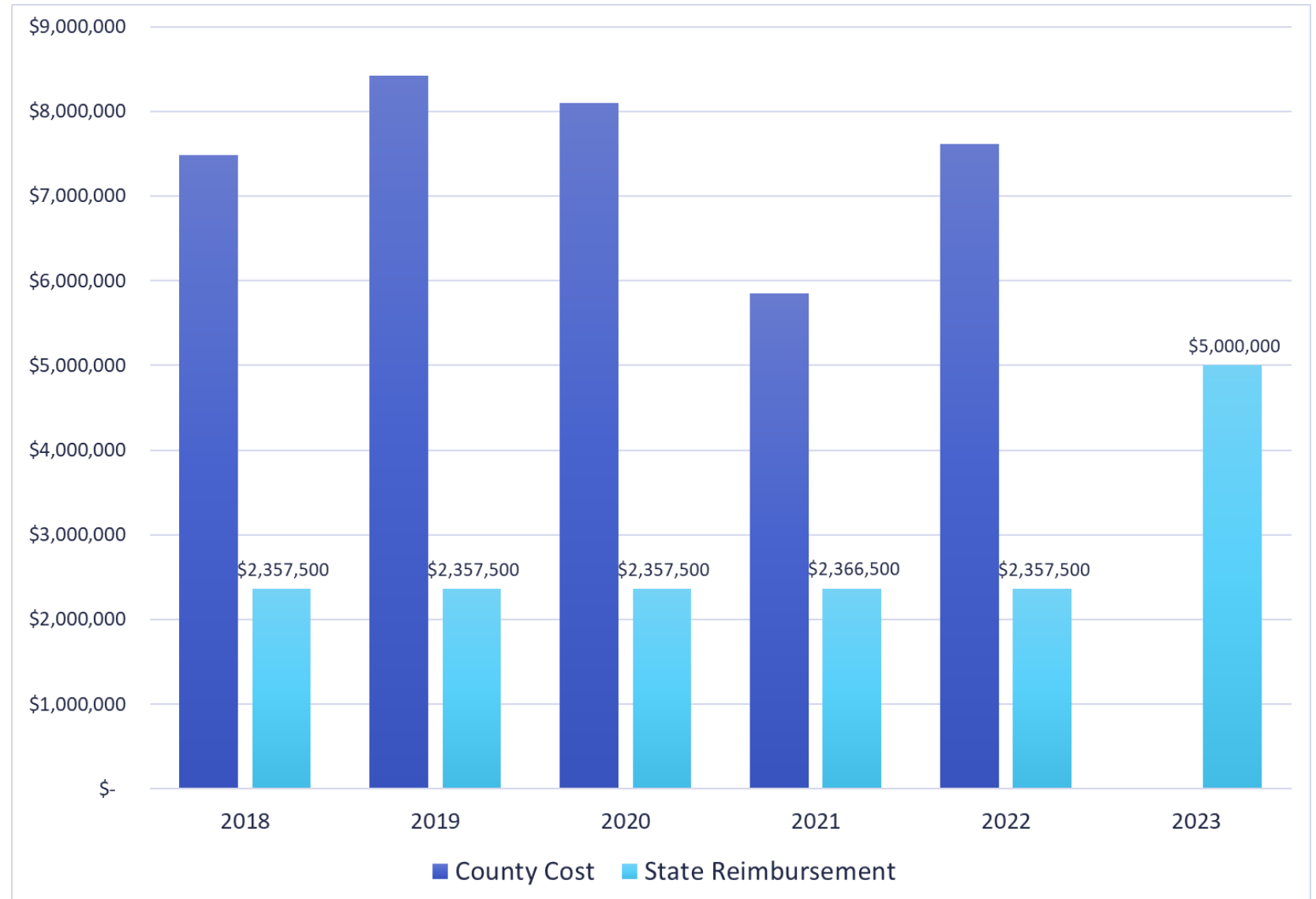
FY24 Revenue



All Revenue as % of Total County Cost

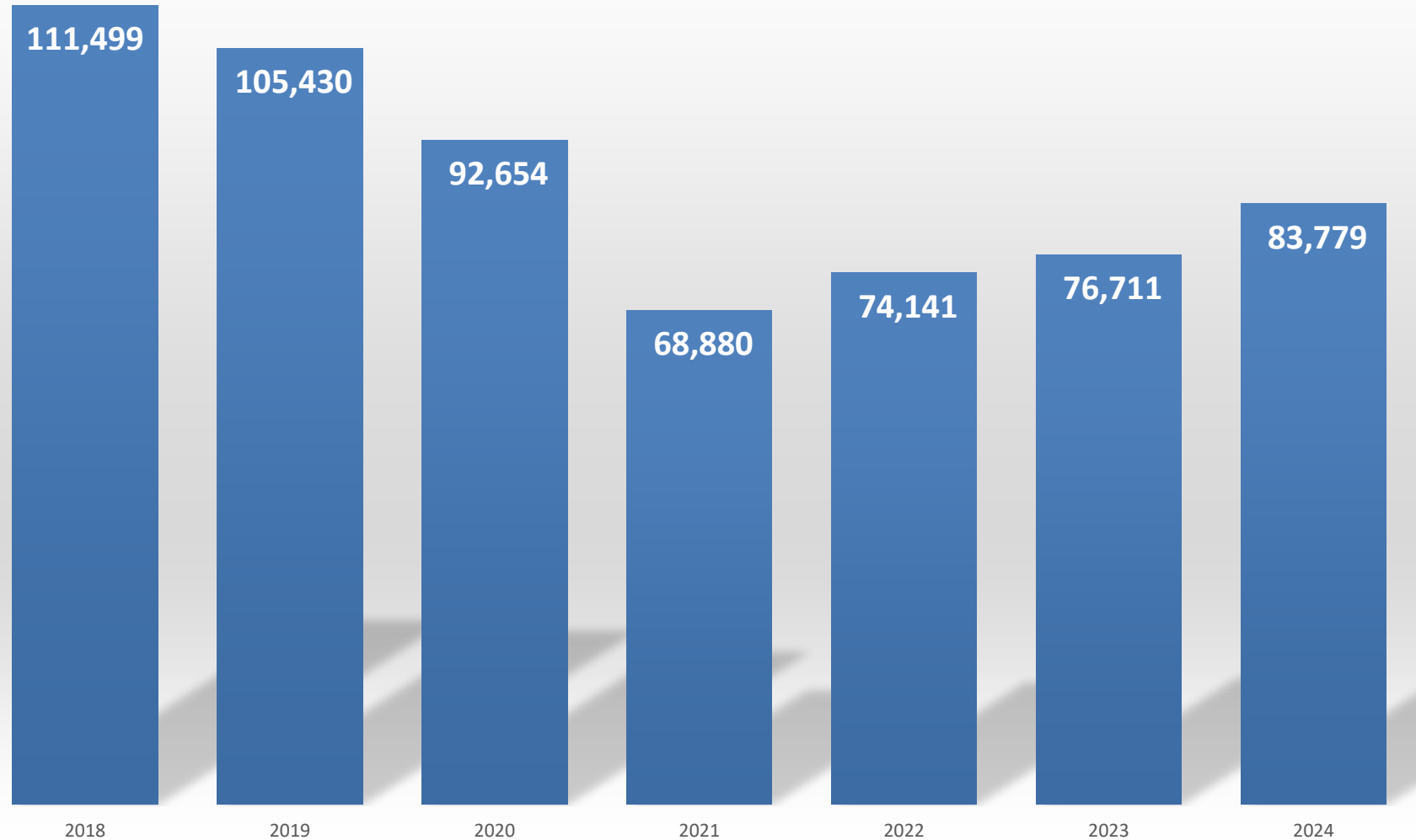


County Detention Facility Reimbursement Fund



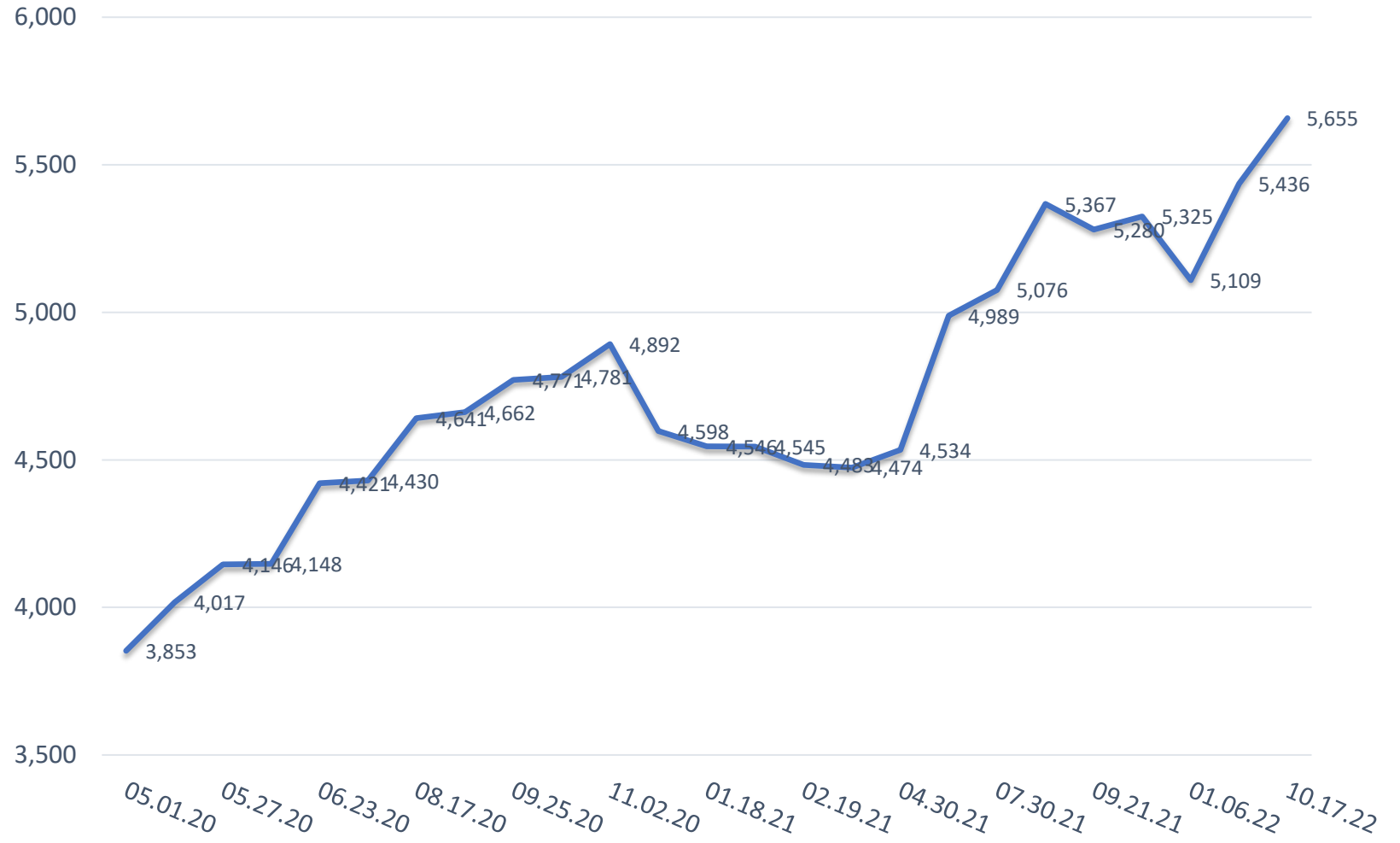
Statewide Detention Bookings 2018-2024

Detention Bookings

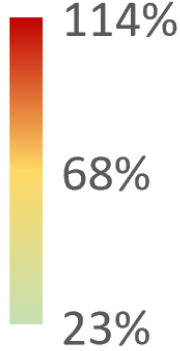
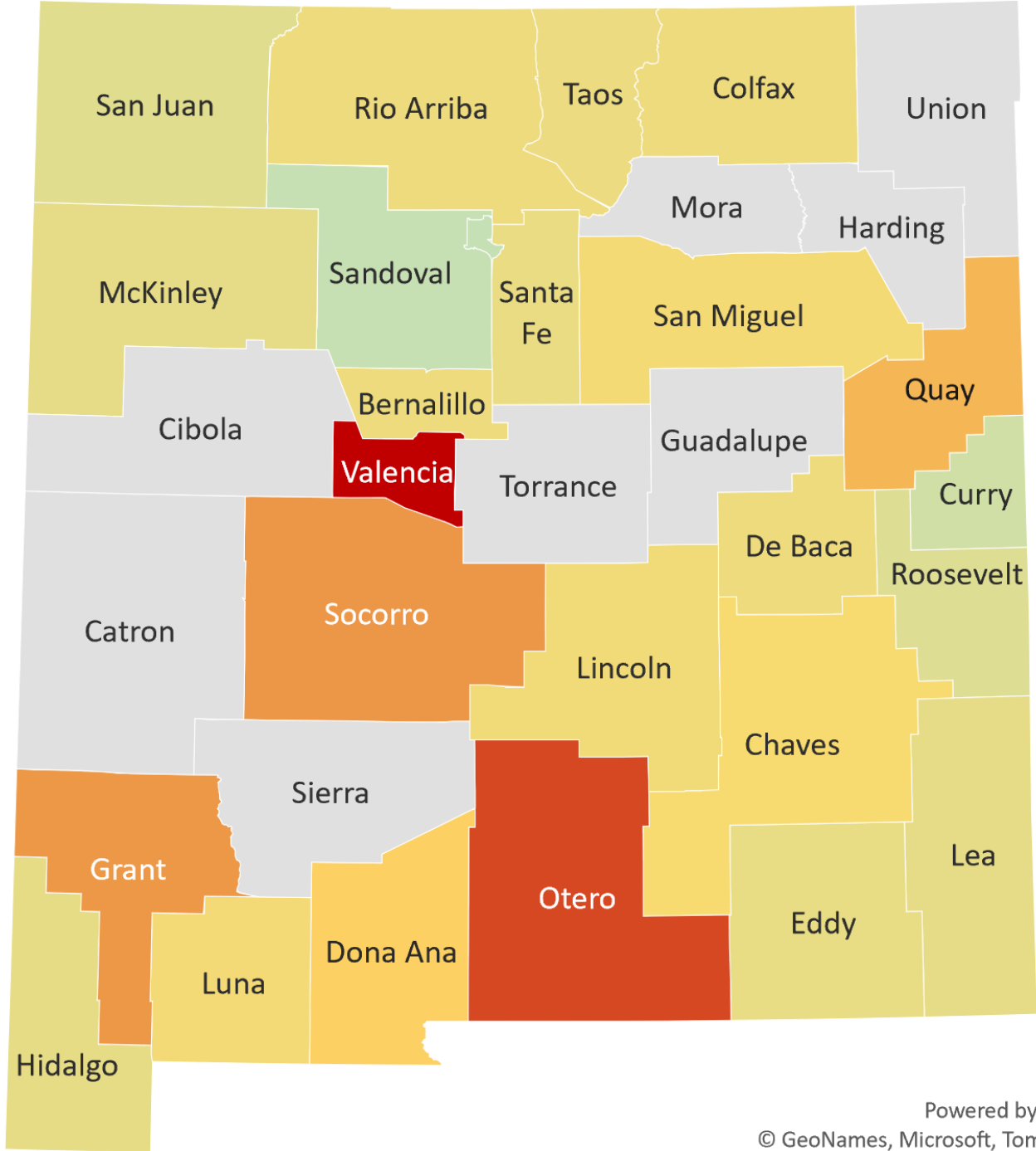


Statewide Detention Population May 1, 2020- Oct. 17, 2022

County Detention Population - May 1, 2020 - October 17, 2022



Percentage Use of Jail Bed Capacity, FY22:



Threat to the Pool

> **\$182 Million since 2014**