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SENATE BILL 410

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Linda M. Lopez

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO COUNTIES; 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.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "County Detention Facility Reimbursement Act".

Section 2. DEFINITIONS.--As used in the County Detention Facility Reimbursement Act:

A. "county detention facility" means a facility that is owned, operated or under contract of operation by a board of county commissioners and that is used for the incarceration of prisoners charged with or convicted of a

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1 violation of local, state, tribal, federal or international  
2 law;

3 B. "division" means the local government division  
4 of the department of finance and administration;

5 C. "dual supervision offender" means an individual  
6 who is serving a probation term and a parole term;

7 D. "eligible county" means a county that provides  
8 information to the New Mexico sentencing commission regarding  
9 costs incurred by the county for the incarceration of felony  
10 offenders;

11 E. "felony offender" means an individual who is  
12 convicted of a felony and sentenced to confinement in a  
13 correctional facility designated by the corrections department  
14 and who:

15 (1) has been released from confinement and is  
16 a dual supervision offender and:

17 (a) has violated parole or is charged  
18 with a parole violation;

19 (b) has violated probation or is charged  
20 with a probation violation; or

21 (c) while on probation or parole, is  
22 charged with a violation of local, state, tribal, federal or  
23 international law;

24 (2) has been released from confinement and is  
25 serving a parole term and:

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1 (a) has violated parole or is charged  
2 with a parole violation; or

3 (b) while on parole, is charged with a  
4 violation of local, state, tribal, federal or international  
5 law; or

6 (3) is awaiting transportation and commitment  
7 to the corrections department following the revocation of  
8 parole or a sentencing hearing for a felony conviction; and

9 F. "fund" means the county detention facility  
10 reimbursement fund.

11 Section 3. INCARCERATION OF FELONY OFFENDERS IN COUNTY  
12 DETENTION FACILITIES--RATE OF REIMBURSEMENT.--

13 A. The distribution amount for each eligible county  
14 each fiscal year shall be derived by multiplying the total  
15 amount of money available in the fund for distribution pursuant  
16 to this section by the felony offender incarceration percentage  
17 for that county. The felony offender incarceration percentage  
18 shall be equal to a fraction:

19 (1) the numerator of which is the rolling  
20 average of the number of felony offenders incarcerated in an  
21 eligible county on June 30 of each of the three fiscal years  
22 immediately preceding the fiscal year in which the distribution  
23 is to be made pursuant to Section 4 of the County Detention  
24 Facility Reimbursement Act; and

25 (2) the denominator of which is the rolling

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1 average of the number of felony offenders incarcerated in all  
2 eligible counties on June 30 of each of the three fiscal years  
3 immediately preceding the fiscal year in which the distribution  
4 is to be made pursuant to Section 4 of the County Detention  
5 Facility Reimbursement Act.

6 B. Annually, on or before December 1, the New  
7 Mexico sentencing commission shall:

8 (1) determine the felony offender  
9 incarceration percentage for each eligible county;

10 (2) calculate the distribution amount for each  
11 eligible county by applying the formula in Subsection A of this  
12 section; and

13 (3) certify to the division the felony  
14 incarceration percentage and the distribution amount for each  
15 eligible county.

16 Section 4. COUNTY DETENTION FACILITY REIMBURSEMENT FUND  
17 CREATED--DISTRIBUTION.--

18 A. The "county detention facility reimbursement  
19 fund" is created in the state treasury. The fund consists of  
20 appropriations, gifts, grants, donations and bequests made to  
21 the fund. Money in the fund shall not revert or be transferred  
22 to any other fund at the end of a fiscal year, and income from  
23 investment of the fund shall be credited to the fund. The  
24 division shall administer the fund, and money in the fund is  
25 appropriated to the division to make distributions to counties

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1 in accordance with Subsection B of this section. Disbursements  
2 from the fund shall be by warrant of the secretary of finance  
3 and administration pursuant to vouchers signed by the director  
4 of the division. No money in the fund shall be expended by the  
5 division for the purpose of administering the fund.

6 B. Annually, on or before January 30 and to the  
7 extent money in the fund is available for such purposes, money  
8 in the fund shall be distributed by the state treasurer as  
9 follows:

10 (1) an amount equal to seventy percent of the  
11 fund less thirty thousand dollars (\$30,000) to eligible  
12 counties in the amounts certified to the division in accordance  
13 with Section 3 of the County Detention Facility Reimbursement  
14 Act;

15 (2) thirty thousand dollars (\$30,000) to the  
16 New Mexico sentencing commission to fund the annual calculation  
17 of the felony offender incarceration percentage and the  
18 distribution amount for each eligible county; and

19 (3) the remainder of the fund to counties  
20 other than class A counties that are designated by the division  
21 as needing additional resources due to inadequate base  
22 revenues.

23 Section 5. APPROPRIATION.--Five million dollars  
24 (\$5,000,000) is appropriated from the general fund to the  
25 county detention facility reimbursement fund for expenditure in

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1 fiscal year 2008 and subsequent fiscal years to carry out the  
2 provisions of the County Detention Facility Reimbursement Act.  
3 Any unexpended or unencumbered balance remaining at the end of  
4 a fiscal year shall not revert to the general fund.

5 Section 6. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2007.