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HOUSE BILL 21

43RD LEGISLATURE - STATE OF NEW MEXICO -SECOND SESSION, 1998

INTRODUCED BY

RICK MIERA

AN ACT

RELATING TO FINANCING COURT FACILITIES; AUTHORIZING THE
ISSUANCE OF NEW MEXICO FINANCE AUTHORITY REVENUE BONDS FOR A
NEW COURT BUILDING FOR THE BERNALILLO COUNTY METROPOLITAN
COURT; IMPOSING FEES; CREATING FUNDS; PROVIDING FOR THE USE OF
CERTAIN FUNDS FOR MAGISTRATE COURT FACILITIES; AMENDING AND
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. Section 34-2-5 NMSA 1978 (being Laws 1933,
Chapter 81, Section 1, as amended) is amended to read:

"34-2-5. FEES--COLLECTION BY SUPREME COURT CLERK. --

A. The clerk of the supreme court shall collect
the following fees:

[A.] (1) in all cases docketed in the court,
except those in which statutory exemption exists and those in

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1 which the court on showing of poverty may, by order, waive the
2 fee, one hundred twenty-five dollars (\$125), twenty-five
3 dollars (\$25.00) of which shall be deposited in the court
4 automation fund; provided that in cases in which a skeleton
5 transcript may be filed for the purpose of a motion to docket
6 and affirm, the fee shall be twenty dollars (\$20.00), ten
7 dollars (\$10.00) of which shall be deposited in the court
8 automation fund;

9 [B.] (2) for one copy of files or a record,
10 ten cents (\$.10) per folio and for additional copies ordered
11 at the same time five cents (\$.05) per folio;

12 [C.] (3) for comparing copies of files or
13 records tendered to him, five cents (\$.05) per folio; and

14 [D.] (4) for each certificate, one dollar
15 (\$1.00).

16 B. Except as otherwise specifically provided by
17 law, the clerk of the supreme court shall pay all fees and
18 costs to the state treasurer for credit to the court
19 facilities fund. "

20 Section 2. Section 34-5-6 NMSA 1978 (being Laws 1966,
21 Chapter 28, Section 6, as amended) is amended to read:

22 "34-5-6. COURT OF APPEALS-- FEES AND COSTS. --

23 A. The clerk of the court of appeals shall collect
24 the following fees:

25 docket fee, twenty-five dollars (\$25.00) of which shall

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1 be deposited in the court

2 automation fund \$125.00

3 docket fee for cases in which a skeleton

4 transcript is filed for purpose of a

5 motion to docket and affirm, ten

6 dollars (\$10.00) of which shall be

7 deposited in the court automation fund . . . 20.00

8 single copy of records, per typewritten folio 10

9 each additional copy of records ordered at

10 same time, per typewritten folio 05

11 copies of records reproduced by photographic

12 process, per page 10

13 comparing copies of records tendered to him,

14 per folio 05

15 each certificate 1.00.

16 B. No fees or costs shall be required in proceedings

17 in forma pauperis, from state officers acting in their official

18 capacity or in any other case where a statutory exemption exists.

19 C. Except as otherwise specifically provided by law,

20 the clerk of the court of appeals shall pay all fees and costs to

21 the state treasurer for credit to the [~~state general~~] court

22 facilities fund."

23 Section 3. Section 35-6-1 NMSA 1978 (being Laws 1968,

24 Chapter 62, Section 92, as amended by Laws 1997, Chapter 242,

25 Section 3 and also by Laws 1997, Chapter 247, Section 1) is

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amended to read:

"35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
"CONVICTED".--

A. Magistrate judges, including metropolitan court
judges, shall assess and collect and shall not waive, defer or
suspend the following costs:

docket fee, criminal actions under Section 29-5-1 NMSA
1978 \$ 1.00

docket fee, to be collected prior to docketing any other
criminal action, except as provided in Subsection B
of Section 35-6-3 NMSA 1978 20.00

docket fee, ten dollars (\$10.00) of which shall be
deposited in the court automation fund, to be
collected prior to docketing any civil action, except
as provided in Subsection A of Section 35-6-3 NMSA
1978 47.00

jury fee, to be collected from the party demanding trial
by jury in any civil action at the time the demand is
filed or made 25.00

copying fee, for making and certifying copies of any
records in the court, for each page copied by
photographic process50.

Proceeds from this copying fee shall be transferred to
the administrative office of the courts for deposit in
the court facilities fund.

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1 copying fee, for computer-generated or electronically
2 transferred copies, per page 1.00.

3 Proceeds from this copying fee shall be transferred to
4 the administrative office of the courts for deposit in
5 the court automation fund. Except as otherwise
6 specifically provided by law, docket fees shall be
7 paid into the [~~general~~] court facilities fund.

8 B. Except as otherwise provided by law, no other
9 costs or fees shall be charged or collected in the magistrate or
10 metropolitan court.

11 C. The magistrate or metropolitan court may grant
12 free process to any party in any civil proceeding or special
13 statutory proceeding upon a proper showing of indigency. The
14 magistrate or metropolitan court may deny free process if it
15 finds that the complaint on its face does not state a cause of
16 action.

17 D. As used in this subsection, "convicted" means the
18 defendant has been found guilty of a criminal charge by the
19 magistrate or metropolitan judge, either after trial, a plea of
20 guilty or a plea of nolo contendere. Magistrate judges,
21 including metropolitan court judges, shall assess and collect and
22 shall not waive, defer or suspend the following costs:

23 (1) corrections fee, to be collected upon
24 conviction from persons convicted of violating any provision of
25 the Motor Vehicle Code involving the operation of a motor

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1 vehicle, convicted of a crime constituting a misdemeanor or a
2 petty misdemeanor or convicted of violating any ordinance that
3 may be enforced by the imposition of a term of imprisonment . .
4 \$10.00;

5 (2) court automation fee, to be collected upon
6 conviction from persons convicted of violating any provision of
7 the Motor Vehicle Code involving the operation of a motor
8 vehicle, convicted of a crime constituting a misdemeanor or a
9 petty misdemeanor or convicted of violating any ordinance that
10 may be enforced by the imposition of a term of imprisonment . .
11 10.00;

12 (3) traffic safety fee, to be collected upon
13 conviction from persons convicted of violating any provision of
14 the Motor Vehicle Code involving the operation of a motor vehicle
15 [~~3.00~~] 5.00;

16 (4) judicial education fee, to be collected upon
17 conviction from persons convicted of operating a motor vehicle in
18 violation of the Motor Vehicle Code, convicted of a crime
19 constituting a misdemeanor or a petty misdemeanor or convicted of
20 violating any ordinance punishable by a term of imprisonment
21 1.00;

22 [and]

23 (5) brain injury services fee, to be collected
24 upon conviction from persons convicted of violating any provision
25 of the Motor Vehicle Code involving the operation of a motor

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1 vehicle 5.00;

2 and

3 (6) court facilities fee, to be collected upon
4 conviction from persons convicted of violating any provision of
5 the Motor Vehicle Code involving the operation of a motor
6 vehicle, convicted of a crime constituting a misdemeanor or a
7 petty misdemeanor or convicted of violating any ordinance that
8 may be enforced by the imposition of a term of imprisonment . . .
9 10.00.

10 E. Metropolitan court judges shall assess and collect
11 as costs and shall not waive, defer or suspend a mediation fee
12 not to exceed five dollars (\$5.00) for the docketing of small
13 claims and criminal actions specified by metropolitan court rule.
14 Proceeds of the mediation fee shall be deposited into the
15 metropolitan court mediation fund. "

16 Section 4. Section 66-8-116.3 NMSA 1978 (being Laws 1989,
17 Chapter 320, Section 5, as amended by Laws 1997, Chapter 242,
18 Section 5 and also by Laws 1997, Chapter 247, Section 2) is
19 amended to read:

20 "66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS-- ADDITIONAL
21 FEES.--In addition to the penalty assessment established for each
22 penalty assessment misdemeanor, there shall be assessed:

23 A. ten dollars (\$10.00) to help defray the costs of
24 local government corrections;

25 B. a court automation fee of ten dollars (\$10.00);

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1 C. a traffic safety fee of [~~three dollars (\$3.00)~~]
2 five dollars (\$5.00), which shall be credited to the traffic
3 safety education and enforcement fund;

4 D. a judicial education fee of one dollar (\$1.00),
5 which shall be credited to the judicial education fund; [~~and~~]

6 E. a brain injury services fee of five dollars
7 (\$5.00), which shall be credited to the brain injury services
8 fund; and

9 F. a court facilities fee of ten dollars (\$10.00). "

10 Section 5. Section 66-8-119 NMSA 1978 (being Laws 1968,
11 Chapter 62, Section 159, as amended by Laws 1997, Chapter 242,
12 Section 6 and also by Laws 1997, Chapter 247, Section 3) is
13 amended to read:

14 "66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

15 A. The division shall remit all penalty assessment
16 receipts, except receipts collected pursuant to Subsections A
17 through [E] F of Section 66-8-116.3 NMSA 1978, to the state
18 treasurer for credit to the general fund.

19 B. The division shall remit all penalty assessment
20 fee receipts collected pursuant to:

21 (1) Subsection A of Section 66-8-116.3 NMSA 1978
22 to the state treasurer for credit to the local government
23 corrections fund;

24 (2) Subsection B of Section 66-8-116.3 NMSA 1978
25 to the state treasurer for credit to the court automation fund;

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1 (3) Subsection C of Section 66-8-116.3 NMSA 1978
2 to the state treasurer for credit to the traffic safety education
3 and enforcement fund;

4 (4) Subsection D of Section 66-8-116.3 NMSA 1978
5 to the state treasurer for credit to the judicial education fund;
6 [and]

7 (5) Subsection E of Section 66-8-116.3 NMSA 1978
8 to the state treasurer for credit to the brain injury services
9 fund; and

10 (6) Subsection F of Section 66-8-116.3 NMSA 1978
11 to the state treasurer for credit to the court facilities fund."

12 Section 6. [NEW MATERIAL] MAGISTRATE COURT FUND CREATED--
13 PURPOSE. --The "magistrate court fund" is created in the state
14 treasury and shall be administered by the administrative office
15 of the courts. The fund shall consist of all money transferred
16 by the New Mexico finance authority to the fund. Money in the
17 fund shall be available for appropriation by the legislature to
18 the administrative office of the courts for the purpose of
19 leasing or purchasing, renovating and maintaining magistrate
20 court facilities.

21 Section 7. [NEW MATERIAL] COURT FACILITIES FUND CREATED--
22 ADMINISTRATION-- DISTRIBUTION. --

23 A. The "court facilities fund" is created in the
24 state treasury and shall be administered by the administrative
25 office of the courts. The fund shall consist of court facilities

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1 fees and lease and rental revenues transferred to or deposited in
2 the fund.

3 B. All court facilities fees and other revenues
4 deposited in the fund shall be distributed monthly to the New
5 Mexico finance authority for deposit in a special bond fund or
6 account of the authority. The New Mexico finance authority may
7 pledge irrevocably all of these distributions to the authority
8 for the payment of principal, interest and any other expenses or
9 obligations related to the bonds issued by the authority for
10 financing the acquisition of real property and for the design,
11 construction and equipping of a new court building for the
12 Bernalillo county metropolitan court in Albuquerque.

13 C. Distributions from the court facilities fund to
14 the New Mexico finance authority shall be made upon vouchers
15 issued and signed by the director of the administrative office of
16 the courts upon warrants drawn by the secretary of finance and
17 administration.

18 Section 8. [NEW MATERIAL] USE OF BERNALILLO COUNTY
19 METROPOLITAN COURT FACILITIES. -- The administrative office of the
20 courts, as holder of record title to the existing Bernalillo
21 county metropolitan court building located on the northwest
22 corner of Fourth street and Roma avenue northwest in Albuquerque,
23 shall administer and manage the building in accordance with the
24 following provisions:

25 A. after completion of a new Bernalillo county

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1 metropolitan court facility with proceeds of bonds issued by the
2 New Mexico finance authority, the entire operations, judges,
3 staff and personnel associated with the Bernalillo county
4 metropolitan court shall be relocated to the new facility and the
5 existing facility shall be vacated;

6 B. the administrative office of the courts shall then
7 make the vacated facility ready and available for lease or rent
8 to public or private tenants;

9 C. rents charged by the administrative office of the
10 courts to any public or private tenant for use of the facility
11 shall be at rates comparable to rents charged in the downtown
12 Albuquerque area for commercial office space;

13 D. after payment of any costs of operating and
14 maintaining a commercial office facility typically paid by a
15 commercial landlord, all lease and rental revenues collected by
16 the administrative office of the courts for the facility shall be
17 deposited in the court facilities fund;

18 E. the administrative office of the courts shall
19 provide a certified tenant list and rent schedule for the
20 facility to the New Mexico finance authority at the end of each
21 fiscal year;

22 F. with the prior written consent of the New Mexico
23 finance authority, the administrative office of the courts may
24 mortgage or encumber the facility or sell or otherwise dispose of
25 the facility; provided that no sale or disposition of the

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1 facility shall be for less than the fair market value of the
2 facility as determined by an independent real estate appraiser;
3 and

4 G. any money received from the sale or other
5 disposition of the facility shall be deposited in the court
6 facilities fund and used for the early redemption of any
7 outstanding bonds issued by the New Mexico finance authority for
8 financing a new court building for the Bernalillo county
9 metropolitan court in Albuquerque.

10 Section 9. [NEW MATERIAL] NEW MEXICO FINANCE AUTHORITY
11 REVENUE BONDS--PURPOSE--APPROPRIATION. --

12 A. If the ten dollar (\$10.00) court facilities fee
13 provided in Section 3 of this act is imposed by law and all
14 distributions to the court facilities fund provided in this act
15 become law, the New Mexico finance authority may issue and sell
16 revenue bonds in compliance with the New Mexico Finance Authority
17 Act in installments or at one time in an amount not exceeding
18 forty-six million five hundred thousand dollars (\$46,500,000) for
19 the purpose of financing the acquisition of real property for and
20 the design, construction and equipping of a new court building
21 for the Bernalillo county metropolitan court in Albuquerque.

22 B. The New Mexico finance authority may issue and
23 sell revenue bonds authorized by this section when the chief
24 judge of the Bernalillo county metropolitan court and the
25 administrator of the Bernalillo county metropolitan court certify

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1 the need for issuance of the bonds. The net proceeds from the
2 sale of the bonds are appropriated to the Bernalillo county
3 metropolitan court for the purpose described in Subsection A of
4 this section.

5 C. The money distributed from the court facilities
6 fund to the New Mexico finance authority shall be pledged
7 irrevocably for the payment of the principal, interest and other
8 expenses or obligations related to the bonds.

9 D. At the end of each fiscal year, any money
10 remaining in the special bond fund or account from distributions
11 made to the authority during that fiscal year, after all
12 principal, interest and other expenses or obligations related to
13 the bonds in that fiscal year are fully paid, shall be
14 transferred to the magistrate court fund. Upon payment of all
15 principal, interest and other expenses or obligations related to
16 the bonds, the authority shall certify to the administrative
17 office of the courts that all obligations for the bonds issued
18 pursuant to this section have been fully discharged and direct
19 the administrative office of the courts and the state treasurer
20 to cease distributing money from the court facilities fund to the
21 authority.

22 E. Any law imposing court facilities fees,
23 authorizing the collection of court facilities fees or directing
24 deposits into the court facilities fund or distribution of the
25 money in the court facilities fund to the New Mexico finance

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1 authority shall not be amended, repealed or otherwise directly or
2 indirectly modified so as to impair outstanding revenue bonds
3 that may be secured by a pledge of the distributions from the
4 court facilities fund to the New Mexico finance authority, unless
5 the revenue bonds have been discharged in full or provisions have
6 been made for a full discharge.

7 F. The New Mexico finance authority may additionally
8 secure the revenue bonds issued pursuant to this section by a
9 pledge of money in the public project revolving fund with a lien
10 priority on the money in the public project revolving fund as
11 determined by the authority.

12 Section 10. EFFECTIVE DATE. --The effective date of the
13 provisions of this act is July 1, 1998.

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 February 6, 1998
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8 Mr. Speaker:
9

10 Your TAXATION AND REVENUE COMMITTEE, to whom has
11 been referred
12

13 HOUSE BILL 21
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 1, line 14, after "CREATING" strike the remainder
18 of the line and strike line 15 up to the semicolon and insert in
19 lieu thereof "A FUND".
20

21 2. On page 1, strike lines 19 through 25, and on page 2,
22 strike lines 1 through 19 and insert in lieu thereof:
23

24 "Section 1. Section 34-2-5 NMSA 1978 (being Laws 1933,
25 Chapter 81, Section 1, as amended) is amended to read:

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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"34-2-5. FEES--COLLECTION BY SUPREME COURT CLERK.--The clerk of the supreme court shall collect the following fees:

A. in all cases docketed in the court, except those in which statutory exemption exists and those in which the court on showing of poverty may, by order, waive the fee, one hundred twenty-five dollars (\$125), twenty-five dollars (\$25.00) of which shall be deposited in the court automation fund and ninety-six dollars (\$96.00) of which shall be deposited in the court facilities fund; provided that in cases in which a skeleton transcript may be filed for the purpose of a motion to docket and affirm, the fee shall be twenty dollars (\$20.00), ten dollars (\$10.00) of which shall be deposited in the court automation fund and ten dollars (\$10.00) of which shall be deposited in the court facilities fund;

B. for one copy of files or a record, ten cents (\$.10) per folio and for additional copies ordered at the same time, five cents (\$.05) per folio;

C. for comparing copies of files or records tendered to

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1 FORTY-THIRD LEGISLATURE
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4 him, five cents (\$.05) per folio; and

5
6 D. for each certificate, one dollar (\$1.00). "".

7
8 3. On page 3, line 2, after "fund" insert "and one hundred
9 dollars (\$100) of which shall be deposited in the court facilities
10 fund".

11
12 4. On page 3, line 7, after "fund" insert "and ten dollars
13 (\$10.00) of which shall be deposited in the court facilities
14 fund".

15
16 5. On page 3, lines 21 and 22, strike the brackets and line-
through and strike "court facilities".

17
18 6. On page 4, between lines 11 and 12, insert "Proceeds from
19 this docket fee shall be transferred to the administrative office
20 of the courts for deposit in the court facilities fund".

21
22 7. On page 9, strike Section 6 in its entirety.

23
24 8. Renumber the succeeding sections accordingly.

25
9. On page 13, line 9, after "D." strike the remainder of
the line, strike all of lines 10 through 13 and strike line 14

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4 through the period and insert in lieu thereof:

5
6 "At the end of each fiscal year, any money remaining in the
7 special bond fund or account, after all principal, interest and
8 other expenses or obligations related to the bonds in that fiscal
9 year are fully paid and after an amount not to exceed six hundred
10 thousand dollars (\$600,000) per year from the annual lease and
11 rental revenues anticipated to be deposited in the court
12 facilities fund is retained in that fund or account, shall be
13 transferred to the general fund."

14 10. On page 13, line 21, before the period insert "and to
15 transfer the money from the court facilities fund to the general
16 fund". ,

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21 and thence referred to the APPROPRIATIONS AND FINANCE
22 COMMI TTEE.
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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HTRC/HB 21

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Lovejoy, Lujan, Porter, Russell, Sandel

Abstained: Stell

Absent: None

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**FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998**

February 21, 1998

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom
has been referred

HOUSE BILL 21, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Max Coll, Chairman

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

6
7 Date _____

8
9 The roll call vote was 13 For 0 Against

10 Yes: 13

11 Excused: Heaton, Salazar, Vigil, Wallace, Watchman

12 Absent: None

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SECOND SESSION, 1998

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 13, 1998

Mr. President:

Your **FINANCE COMMITTEE**, to whom has been referred

HOUSE BILL 21, as amended

has had it under consideration and reports same with
recommendation that it **DO PASS**.

Respectfully submitted,

Ben D. Altamirano, Chairman

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SECOND SESSION, 1998

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Aragon, Carraro, Lyons, McKibben, Smith

Absent: None

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