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SENATE BILL 297

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

INTRODUCED BY

SUE F. WILSON

AN ACT

RELATING TO CRIMINAL JUSTICE; REQUIRING THE STATE TO PAY FOR
INCARCERATION OF PERSONS AWAITING TRIAL ON FELONY CHARGES
AFTER SIXTY DAYS; MAKING AN APPROPRIATION.

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

Section 1. Section 33-3-13 NMSA 1978 (being Laws 1889,
Chapter 8, Section 1, as amended) is amended to read:

"33-3-13. PRISONERS [~~WAITING~~] AWAITING TRIAL--
CONFINEMENT IN COUNTY JAIL. --

[~~All persons~~] A. A person charged with a crime
committed in the state, while awaiting indictment or trial on
such charge, shall be incarcerated in the county jail of the
county [~~wherein such~~] in which the crime is alleged to have
been committed or any facility operated by agreement between
such counties or municipalities, except that such [~~persons~~]

Underscored material = new
[bracketed material] = delete

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1 person may be temporarily imprisoned in other places of
2 confinement while being conveyed or awaiting conveyance to the
3 jail of the proper county; provided that the sheriff or jail
4 administrator of [~~any~~] a county having the custody of anyone
5 charged with the commission of a crime shall be authorized to
6 remove such person to another county jail or any other place
7 of safety when in the opinion of the sheriff or jail
8 administrator the life of such person or others is in imminent
9 danger; provided further that this section shall not prevent a
10 person being confined in a jail other than the one belonging
11 to the county in which the crime charged is alleged to have
12 been committed when such person is confined in such other jail
13 in consequence of having taken a change of venue to such other
14 county.

15 B. When a person awaiting trial on a felony crime
16 is incarcerated for more than sixty days, the state shall
17 reimburse the county for the cost of housing him. "

18 Section 2. Section 33-3-14 NMSA 1978 (being Laws 1889,
19 Chapter 8, Section 2, as amended) is amended to read:

20 "33-3-14. WHAT COUNTY TO PAY EXPENSE. -- [~~SEC. 18.~~]
21 Whenever any person [~~shall be~~] is imprisoned in any county
22 other than the county in which the crime is alleged to have
23 been committed in violation of [~~this~~] Chapter 33, Article 3
24 NMSA 1978, the expense of such imprisonment shall be borne by
25 the county in which [~~such~~] the person is [~~so~~] imprisoned

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1 [Provided, that]. Whenever any prisoner [shall be] is removed
2 to another county [under] pursuant to the provisions of [the
3 preceding] Section 33-3-13 NMSA 1978 then, and in such case,
4 the expense of removal and keeping [such] the prisoner shall
5 be paid by the county from which [such] the prisoner was [so]
6 removed or the state as provided in that section. "

7 Section 3. Section 33-3-15 NMSA 1978 (being Laws 1919,
8 Chapter 92, Section 1, as amended) is amended to read:

9 "33-3-15. TRANSFER OF PRISONER TO ANOTHER COUNTY OR THE
10 PENITENTIARY FOR SAFEKEEPING-- EXPENSE. --

11 A. Whenever the public welfare or the safe custody
12 of a prisoner [shall require, any] requires, a district judge
13 in the state [of New Mexico] in his discretion may order any
14 person charged with the commission of a crime, or any person
15 in the custody of the sheriff of any county in the district of
16 the [said] judge, to be removed to another county jail or to
17 the state penitentiary or to any other place of safety when,
18 in the opinion of the [said] district judge, it is advisable
19 that [such] the person [or persons] shall be removed for any
20 purpose whatsoever.

21 B. Where a person, on the order of any district
22 judge, has been placed in the state penitentiary or a county
23 jail for safekeeping, the expense incurred by [said] the
24 penitentiary or the sheriff of any county for the maintenance
25 of [said] the prisoner shall be borne by the county from which

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1 ~~[said]~~ the prisoner has been ordered ~~[and said]~~ or the state
2 as provided in Section 33-3-13 NMSA 1978. The bill of expense
3 shall be made a preferential bill of expense and shall be paid
4 in full before any bill, fees or salaries of ~~[such]~~ the county
5 are paid; provided, however, that the ~~[said]~~ state
6 penitentiary or sheriff shall only charge for the maintenance
7 of ~~[said]~~ the prisoner at the legal rate ~~[now]~~ allowed by law.
8 This section shall not authorize a charge against a county for
9 expenses relating to any prisoner committed to the
10 penitentiary as a result of a criminal conviction. "

11 Section 4. TEMPORARY PROVISION--LOCAL GOVERNMENT
12 DIVISION RULES.--The local government division of the
13 department of finance and administration shall by rule
14 establish procedures for receiving, verifying and reimbursing
15 counties for the cost of incarcerating persons awaiting trial
16 on felony charges as provided in Section 33-3-13 NMSA 1978.

17 Section 5. APPROPRIATION.--One million dollars
18 (\$1,000,000) is appropriated from the general fund to the
19 local government division of the department of finance and
20 administration for expenditure in fiscal year 1999 to pay the
21 counties' costs of incarcerating persons awaiting trial on
22 felony charges. Any unexpended or unencumbered balance
23 remaining at the end of fiscal year 1999 shall revert to the
24 general fund.

25 Section 6. EFFECTIVE DATE.--The effective date of the

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provisions of this act is July 1, 1998.

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 February 4, 1998
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8 Mr. President:
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10 Your COMMITTEES' COMMITTEE, to whom has been referred
11

12 SENATE BILL 297
13

14 has had it under consideration and finds same to be GERMANE, in
15 accordance with constitutional provisions, and thence referred to the
16 PUBLIC AFFAIRS COMMITTEE.
17

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19 Respectfully submitted,
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Manny M. Aragon, Chairman

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(Chief Clerk)

(Chief Clerk)

Date _____

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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6 February 4, 1998

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