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SENATE BILL 1181

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

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO SMALL COUNTIES; ENACTING THE SMALL COUNTY DETENTION FACILITY REIMBURSEMENT ACT; PROVIDING REIMBURSEMENT TO SMALL COUNTIES FOR THE COSTS OF INCARCERATION OF CERTAIN PERSONS CONVICTED OF A FELONY; CREATING THE SMALL 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 "Small County Detention Facility Reimbursement Act".

Section 2. DEFINITIONS.--As used in the Small 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 small county as
8 defined in the Small Counties Assistance Act that provides
9 information to the New Mexico sentencing commission regarding
10 costs incurred by the county for the incarceration of felony
11 offenders;

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

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

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

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

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

25 (2) has been released from confinement and is

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1 serving a parole term and:

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

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

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

10 F. "fund" means the small county detention facility
11 reimbursement fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (3) the remainder of the fund to counties that
22 are designated by the division as needing additional resources
23 due to inadequate base revenues.

24 Section 5. APPROPRIATION.--Four million dollars
25 (\$4,000,000) is appropriated from the general fund to the small
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1 county detention facility reimbursement fund for expenditure in
2 fiscal year 2008 and subsequent fiscal years to carry out the
3 provisions of the Small County Detention Facility Reimbursement
4 Act. Any unexpended or unencumbered balance remaining at the
5 end of a fiscal year shall not revert to the general fund.

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