

**FIFTY-FIFTH LEGISLATURE
FIRST SESSION, 2021**

February 13, 2021

Mr. Speaker:

Your **JUDICIARY COMMITTEE**, to whom has been referred
HOUSE BILL 40

has had it under consideration and reports same with
recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 13, after "WITH", insert "PRIVATE".
2. On page 1, line 19, strike "PROVIDING A PENALTY" and insert in lieu thereof "CREATING THE DETENTION FACILITY ECONOMIC DEVELOPMENT ASSISTANCE FUND AND THE DETENTION FACILITY DISPLACED WORKER ASSISTANCE FUND".
3. On page 2, line 1, strike "3" and insert in lieu thereof "4".
4. On page 2, line 18, after "facility", insert "except those operating pursuant to a valid agreement entered into prior to the enactment of the Private Detention Facility Moratorium Act, and only for the duration of the current term of the agreement, not to include extensions, renewals or modifications as prohibited by this section".
5. On page 2, line 22, after the comma, strike the remainder of the line, strike all of lines 23 through 25 and insert in lieu thereof "extend, renew or modify, in a manner that would increase the capacity of a private detention facility to house or detain individuals, an agreement of any kind for the detention of individuals in a detention facility managed".
6. On page 3, line 5, strike "owned,".
7. On page 3, line 6, after "entity", insert ", with the exception of those operating pursuant to a valid agreement entered into prior to the enactment of the Private Detention Facility Moratorium Act".
8. On page 3, line 19, after the semicolon, insert "or".
9. On page 3, line 22, strike "; or" and insert in lieu thereof a period.

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10. On page 3, lines 23 through 25, strike Paragraph (5) in its entirety.

11. On page 4, before line 1, insert the following new section:

"SECTION 4. [NEW MATERIAL] DETENTION FACILITY ECONOMIC DEVELOPMENT ASSISTANCE FUND--DETENTION FACILITY DISPLACED WORKER ASSISTANCE FUND--COMMUNITY ADVISORY COMMITTEE.--

A. The "detention facility economic development assistance fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund. Income from the fund shall not revert or be transferred to any other fund at the end of a fiscal year.

B. The economic development department shall administer the detention facility economic development assistance fund, and money in the fund is subject to appropriation by the legislature only to that department to assist in diversifying and promoting the affected community's economy by fostering economic development opportunities unrelated to privately operated detention facilities.

C. The economic development department shall develop an economic diversification and development plan to assist the affected community that shall provide for the disbursement of money in the detention facility economic development assistance fund. In developing the plan, the economic development department shall request recommendations from the affected community's community advisory committee pursuant to Subsection G of this section and establish a public input process in the affected community to inform the use of money in the fund. The economic development department shall engage in consultation with Indian nations, tribes and pueblos in the affected area pursuant to the State-Tribal Collaboration Act. The public input process shall include at least three public meetings in the affected community. Expenditures from the fund shall be made pursuant to the plan and as follows:

(1) to an entity approved by the economic

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development department to receive funds for any program established at the economic development department;

(2) to assist employers to qualify for any tax relief for hiring displaced workers established under state or federal law; and

(3) to a municipality, county, Indian nation, tribe or pueblo or land grant community in New Mexico for programs designed to promote economic development in the affected community.

D. The "detention facility displaced worker assistance fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year.

E. The workforce solutions department shall administer the detention facility displaced worker assistance fund, and money in the fund is subject to appropriation by the legislature only to that department to assist displaced workers in an affected community.

F. The workforce solutions department shall develop a displaced worker development plan to assist displaced workers in an affected community that shall provide for the disbursement of money in the detention facility displaced worker assistance fund. In developing the plan, the workforce solutions department shall request recommendations from the affected community's community advisory committee pursuant to Subsection G of this section and establish a public input process in the affected community to inform the use of money in the detention facility displaced worker assistance fund. The workforce solutions department shall engage in consultation with the Indian nations, tribes and pueblos in the affected area pursuant to the State-Tribal Collaboration Act. The public input process shall include at least three public meetings in the affected community. Expenditures from the detention facility displaced worker assistance fund shall

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be made pursuant to the plan as follows:

(1) to assist employers of displaced workers to qualify for any tax relief established under state or federal law;

(2) to the workforce solutions department:

(a) to provide assistance to displaced workers using any program established at that department; and

(b) for payment of costs associated with displaced workers enrolling and participating in certified apprenticeship programs in New Mexico; and

(3) to a municipality, county, Indian nation, tribe or pueblo or land grant community in New Mexico for job training and apprenticeship programs for displaced workers or for programs designed to promote economic development in the affected community.

G. In each affected community, a community advisory committee shall be convened. All meetings of the community advisory committee shall be held pursuant to the Open Meetings Act. The secretaries of economic development and workforce solutions shall appoint three conveners who reside in the affected community, at least one from each major political party and one representing an Indian nation, tribe or pueblo in the affected community. The conveners shall appoint members of the community advisory committee to include a member from each municipality, county, Indian nation, tribe or pueblo and land grant community, if any, in the affected community, at least four appointees representing diverse economic and cultural perspectives of the affected community and one appointee representing displaced workers in the affected community. Within sixty days of a request by the economic development department pursuant to Subsection C of this section, or the workforce solutions department pursuant to Subsection F of this section, a community advisory committee shall provide recommendations to the requesting department on the use of available funds intended for the affected community.

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H. As used in this section:

(1) "affected community" means:

(a) a county in New Mexico where a privately operated detention facility closes because of the Private Detention Facility Moratorium Act and results in twenty or more displaced workers of the detention facility in that county; or

(b) an adjacent county where twenty or more displaced workers of a closed privately operated detention facility reside; and

(2) "displaced worker" means a New Mexico resident who:

(a) within the previous twelve months, was terminated from employment, or whose contract was terminated, due to the closure of a New Mexico privately operated detention facility that resulted in the displacing of at least forty workers;

(b) had at least seventy-five percent of the resident's net income, as that term is defined in the Income Tax Act, from the employment or contract described in Subparagraph (a) of this paragraph;

(c) has not been able to replace the lost wages described in Subparagraph (b) of this paragraph or whose annual wages are at least twenty-five percent less than when the privately operated detention facility was operating; and

(d) does not qualify to take full benefits pursuant to a pension or retirement plan."

12. Renumber the succeeding sections accordingly.

13. On page 8, line 15, strike "a person hired" and insert in lieu thereof "an individual employed".

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14. On page 8, line 23, after "OR", insert "PRIVATE".
15. On page 9, line 2, strike "hired" and insert in lieu thereof "employed".
16. On page 9, lines 5 and 6, strike "independent contractors with whom those entities have entered into contracts" and insert in lieu thereof "private independent contractors with whom those entities have entered into a valid agreement prior to the enactment of the Private Detention Facility Moratorium Act, and only for the duration of the agreement, not to include extensions, renewals or modifications as prohibited by Section 3 of the Private Detention Facility Moratorium Act".
17. On page 10, line 8, after "administrator", strike the remainder of the line, strike line 9 in its entirety and strike line 10 up to the semicolon and insert in lieu thereof "or by a private independent contractor if the agreement was entered into prior to the enactment of the Private Detention Facility Moratorium Act, and only for the duration of the agreement, not to include extensions, renewals or modifications as prohibited by Section 3 of the Private Detention Facility Moratorium Act".
18. On page 11, line 3, strike "CENTERS" and insert in lieu thereof "FACILITIES".
19. On page 11, line 7, strike "center" and insert in lieu thereof "facility".
20. On page 11, line 10, strike "corrections department" and insert in lieu thereof "risk management division of the general services department, the local government division of the department of finance and administration and the office of the attorney general".
21. On page 11, line 11, strike "corrections department" and insert in lieu thereof "risk management division, the local government division and the office of the attorney general".

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22. On page 11, line 12, strike "contract with an" and insert in lieu thereof "agreement with a private".

23. On page 11, line 14, strike "corrections department" and insert in lieu thereof "risk management division, the local government division or the office of the attorney general".

24. On page 11, line 15, strike "contract" and insert in lieu thereof "agreement".

25. On page 11, line 17, after "the", insert "private".

26. On page 11, line 18, strike "contract" and insert in lieu thereof "agreement or fails to satisfactorily meet any contractual arrangement pursuant to Section 33-3-27 NMSA 1978".

27. On page 11, line 19, strike "department" and insert in lieu thereof "risk management division, the local government division or the office of the attorney general".

28. On page 11, line 23, strike "contract" and insert in lieu thereof "agreement".

29. On page 13, line 13, after "the", insert "private".

30. On page 14, line 16, after "the", insert "private".

31. On page 14, line 19, after "the", insert "private".

32. On page 15, between lines 4 and 5, insert the following new subsection:

"H. Any agreement subject to this section shall not be entered into, extended, renewed or modified as prohibited by Section 3 of the Private Detention Facility Moratorium Act."

33. Reletter the succeeding subsection accordingly.

34. On page 15, lines 16 through 18, strike "extend,

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renew or enter into a contract with an independent contractor for the operation" and insert in lieu thereof "enter into a contract with a private independent contractor for the operation or management".,

and thence referred to the **APPROPRIATIONS AND FINANCE COMMITTEE.**

Respectfully submitted,

Gail Chasey, Chair

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 6 For 3 Against

Yes: 6

No: Alcon, Nibert, Townsend

Excused: Cook, Egolf, Rehm

Absent: None

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