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HOUSE BILL 264

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Thomas E. Swisstack

AN ACT

RELATING TO COUNTIES; ENACTING THE COUNTY DETENTION FACILITY REFORM ACT; PROVIDING REIMBURSEMENT TO COUNTIES FOR THE COSTS OF INCARCERATION OF STATE PRISONERS; CREATING THE COUNTY DETENTION FACILITY REFORM 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 Reform Act".

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

A. "ancillary services" means:

- (1) medical services, treatment or care;
- (2) prescription drug services;
- (3) dental services;
- (4) mental health services, treatment or care;

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- 1 (5) vision treatment or care;
- 2 (6) ambulatory services; and
- 3 (7) transportation services;

4 B. "county detention facility" means a facility  
5 owned, operated or under contract of operation by a board of  
6 county commissioners that is used for the incarceration of  
7 prisoners charged with or convicted of a violation of local,  
8 state, tribal, federal or international law;

9 C. "department" means the department of finance and  
10 administration;

11 D. "incarceration" means the housing, care and  
12 transportation of state prisoners; and

13 E. "state prisoner" means an individual charged  
14 with or convicted of a violation of state law, except those  
15 individuals convicted of a misdemeanor as provided in Section  
16 31-19-1 NMSA 1978.

17 Section 3. REIMBURSEMENT.--The department shall reimburse  
18 a county for the costs of incarceration of a state prisoner  
19 who:

20 A. has violated parole or is charged with a parole  
21 violation;

22 B. while on parole, is charged with a violation of  
23 local, state, tribal, federal or international law;

24 C. is awaiting transportation and commitment to the  
25 corrections department following the pronouncement of a

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1 judgment, a sentence or an order of confinement;

2 D. is charged with a violation of probation by the  
3 corrections department or by a district court;

4 E. is sentenced, ordered or removed by the district  
5 court to incarceration in a county detention facility for a  
6 felony conviction; or

7 F. is incarcerated on the basis of an arrest and  
8 hold order or a warrant issued by the corrections department.

9 Section 4. RATE OF REIMBURSEMENT.--The department shall  
10 reimburse a county the actual cost per day for housing each  
11 prisoner incarcerated in that county's detention facility. The  
12 department shall also reimburse the county the cost of  
13 providing ancillary services to each state prisoner  
14 incarcerated in the county's detention facility.

15 Section 5. COUNTY DETENTION FACILITY REFORM FUND  
16 CREATED.--

17 A. The "county detention facility reform fund" is  
18 created in the state treasury. The fund shall consist of  
19 appropriations, gifts, grants, donations, federal funds  
20 available for the purposes of the fund and earnings from the  
21 investment of the fund. The department shall administer the  
22 fund, and the money in the fund is appropriated to the  
23 department to reimburse boards of county commissioners as  
24 provided in the County Detention Facility Reform Act and  
25 subject to the balances available in the fund. No more than

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1 fifty percent of the money in the fund shall be expended by the  
2 department to reimburse a single board of county commissioners,  
3 and no money in the fund shall be expended by the department  
4 for the purpose of administering the fund.

5 B. Disbursements of the county detention facility  
6 reform fund shall be made by warrant of the secretary of  
7 finance and administration pursuant to vouchers signed by the  
8 county manager of the county to be reimbursed or the county  
9 manager's authorized representative and approved by the  
10 department. Any unexpended or unencumbered balance shall not  
11 revert to any other fund but shall remain to the credit of the  
12 fund.

13 Section 6. APPROPRIATION.--Twenty-five million dollars  
14 (\$25,000,000) is appropriated from the general fund to the  
15 county detention facility reform fund for expenditure in fiscal  
16 year 2007 and subsequent fiscal years to carry out the  
17 provisions of the County Detention Facility Reform Act. Any  
18 unexpended or unencumbered balance remaining at the end of a  
19 fiscal year shall not revert to the general fund.

20 Section 7. EFFECTIVE DATE.--The effective date of the  
21 provisions of this act is July 1, 2006.