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HOUSE BILL 316

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

INTRODUCED BY

Rhonda S. King

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

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

Section 2. DEFINITIONS.--As used in the 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 county that provides
8 information to the New Mexico sentencing commission regarding
9 costs incurred by the county for the incarceration of felony
10 offenders;

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

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

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

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

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

24 (2) has been released from confinement and is
25 serving a parole term and:

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

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

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

9 F. "fund" means the county detention facility
10 reimbursement fund.

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

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

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

25 (2) the denominator of which is the rolling

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

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

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

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

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

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

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

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

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

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

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

19 (3) the remainder of the fund to counties
20 other than class A counties that are designated by the division
21 as needing additional resources due to inadequate base
22 revenues.

23 Section 5. APPROPRIATION.--Five million dollars
24 (\$5,000,000) is appropriated from the general fund to the
25 county detention facility reimbursement fund for expenditure in

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1 fiscal year 2008 and subsequent fiscal years to carry out the
2 provisions of the County Detention Facility Reimbursement Act.
3 Any unexpended or unencumbered balance remaining at the end of
4 a fiscal year shall not revert to the general fund.

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