

HOUSE BILL 352

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

Linda Serrato and Angelica Rubio

AN ACT

RELATING TO CORRECTIONAL INSTITUTIONS; ENACTING THE PRIVATE  
DETENTION FACILITY MORATORIUM ACT; REMOVING AUTHORIZATION TO  
ENTER INTO CONTRACTS OR AGREEMENTS WITH PRIVATE INDEPENDENT  
CONTRACTORS FOR THE OPERATION OF DETENTION FACILITIES;  
PROVIDING FOR RECOMMENDED TERMINATION OF CONTRACTS FOR  
OPERATION OF JAILS UNDER CERTAIN CIRCUMSTANCES; MAKING THE  
OPERATION OF A PRIVATE DETENTION FACILITY UNLAWFUL; PROHIBITING  
PUBLIC FUNDING OF PRIVATE DETENTION FACILITIES; CREATING THE  
DETENTION FACILITY ECONOMIC DEVELOPMENT ASSISTANCE FUND AND THE  
DETENTION FACILITY DISPLACED WORKER ASSISTANCE FUND; REQUIRING  
ANNUAL REPORTS; REPEALING SECTIONS 33-1-17 AND 33-3-26 NMSA  
1978 (BEING LAWS 1985, CHAPTER 149, SECTION 1 AND LAWS 1984,  
CHAPTER 22, SECTION 17, AS AMENDED); DECLARING AN EMERGENCY.

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

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1           SECTION 1.   [NEW MATERIAL] SHORT TITLE.--Sections 1  
2 through 4 of this act may be cited as the "Private Detention  
3 Facility Moratorium Act".

4           SECTION 2.   [NEW MATERIAL] DEFINITIONS.--As used in the  
5 Private Detention Facility Moratorium Act:

6           A. "detention facility" means a facility other than  
7 a work-release facility in which a person is incarcerated or  
8 otherwise involuntarily confined for purposes other than  
9 medical or mental health necessity or addiction therapy;

10          B. "operate" means to house, protect and discipline  
11 people involuntarily confined in a detention facility; and

12          C. "private detention facility" means a detention  
13 facility that is operated by a nongovernmental entity."

14           SECTION 3.   [NEW MATERIAL] OPERATION OF A PRIVATE  
15 DETENTION FACILITY PROHIBITED--CERTAIN AGREEMENTS AND  
16 INCENTIVES PROHIBITED--EXCEPTIONS.--

17          A. It is unlawful for any person, corporation,  
18 business or nonprofit entity to operate a private detention  
19 facility except those operating pursuant to a valid agreement  
20 entered into prior to the enactment of the Private Detention  
21 Facility Moratorium Act, and only for the duration of the  
22 current term of the agreement and any extensions made to that  
23 agreement so long as the agreement is not extended to allow for  
24 the operation of a private detention facility after December  
25 31, 2026, not to include renewals or modifications as

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1 prohibited by this section.

2 B. Neither the state, nor any other governmental  
3 entity, county sheriff or any officer, employee or agent,  
4 shall:

5 (1) enter into, renew or modify, in a manner  
6 that would increase the capacity of a private detention  
7 facility to house or detain individuals, an agreement of any  
8 kind for the detention of individuals in a detention facility  
9 managed or operated, in whole or in part, by a private entity;  
10 or

11 (2) pay, reimburse or subsidize in any way any  
12 costs related to the sale, purchase, construction, development,  
13 ownership, management or operation of a detention facility that  
14 is managed or operated, in whole or in part, by a private  
15 entity, with the exception of those operating pursuant to a  
16 valid agreement entered into prior to the enactment of the  
17 Private Detention Facility Moratorium Act.

18 C. This section does not apply to:

19 (1) a facility that has as its principal  
20 function the provision of:

21 (a) educational services or  
22 rehabilitative, physical, mental or behavioral health services  
23 to a juvenile inmate; or

24 (b) educational, vocational, medical or  
25 other services ancillary to detention to an adult or juvenile

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1 inmate;

2 (2) a school facility used for the  
3 disciplinary detention of a student;

4 (3) a facility used to isolate or quarantine a  
5 person for public health reasons; or

6 (4) a facility used for the temporary  
7 detention of a person detained or arrested by a private  
8 security guard or other private person.

9 SECTION 4. ~~[NEW MATERIAL]~~ DETENTION FACILITY ECONOMIC  
10 DEVELOPMENT ASSISTANCE FUND--DETENTION FACILITY DISPLACED  
11 WORKER ASSISTANCE FUND--COMMUNITY ADVISORY COMMITTEE.--

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

18 B. The economic development department shall  
19 administer the detention facility economic development  
20 assistance fund, and money in the fund is subject to  
21 appropriation by the legislature only to that department to  
22 assist in diversifying and promoting an affected community's  
23 economy by fostering economic development opportunities  
24 unrelated to private detention facilities.

25 C. Money in the fund shall be disbursed on warrants

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1 signed by the secretary of finance and administration pursuant  
2 to vouchers signed by the secretary of economic development or  
3 the secretary's authorized representative.

4 D. The economic development department shall  
5 develop an economic diversification and development plan to  
6 assist an affected community that shall provide for the  
7 disbursement of money in the detention facility economic  
8 development assistance fund. In developing the plan, the  
9 economic development department shall request recommendations  
10 from the affected community's community advisory committee  
11 pursuant to Subsection I of this section and establish a public  
12 input process in the affected community to inform the use of  
13 money in the fund. The economic development department shall  
14 engage in consultation with Indian nations, tribes and pueblos  
15 in the affected area pursuant to the State-Tribal Collaboration  
16 Act. The public input process shall include at least three  
17 public meetings in the affected community. Expenditures from  
18 the fund shall be made pursuant to the plan and as follows:

19 (1) to an entity approved by the economic  
20 development department to receive funds for any program  
21 established at the economic development department;

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

25 (3) to a municipality, county, Indian nation,

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1     tribe or pueblo or land grant community in New Mexico for  
2     programs designed to promote economic development in the  
3     affected community.

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

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

15            G. Money in the fund shall be disbursed on warrants  
16     signed by the secretary of finance and administration pursuant  
17     to vouchers signed by the secretary of workforce solutions or  
18     the secretary's authorized representative.

19            H. The workforce solutions department shall develop  
20     a displaced worker development plan to assist displaced workers  
21     in an affected community that shall provide for the  
22     disbursement of money in the detention facility displaced  
23     worker assistance fund. In developing the plan, the workforce  
24     solutions department shall request recommendations from the  
25     affected community's community advisory committee pursuant to

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1 Subsection I of this section and establish a public input  
2 process in the affected community to inform the use of money in  
3 the detention facility displaced worker assistance fund. The  
4 workforce solutions department shall engage in consultation  
5 with the Indian nations, tribes and pueblos in the affected  
6 area pursuant to the State-Tribal Collaboration Act. The  
7 public input process shall include at least three public  
8 meetings in the affected community. Expenditures from the  
9 detention facility displaced worker assistance fund shall be  
10 made pursuant to the plan as follows:

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

14 (2) to the workforce solutions department:

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

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

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

25 I. In each affected community, a community advisory

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1 committee shall be convened. All meetings of the community  
2 advisory committee shall be held pursuant to the Open Meetings  
3 Act. The secretaries of economic development and workforce  
4 solutions shall appoint three conveners who reside in the  
5 affected community, at least one from each major political  
6 party and one representing an Indian nation, tribe or pueblo in  
7 the affected community. The conveners shall appoint members of  
8 the community advisory committee to include a member from each  
9 municipality, county, Indian nation, tribe or pueblo and land  
10 grant community, if any, in the affected community, at least  
11 four appointees representing diverse economic and cultural  
12 perspectives of the affected community and one appointee  
13 representing displaced workers in the affected community.  
14 Within sixty days of a request by the economic development  
15 department pursuant to Subsection D of this section, or the  
16 workforce solutions department pursuant to Subsection H of this  
17 section, a community advisory committee shall provide  
18 recommendations to the requesting department on the use of  
19 available funds intended for the affected community.

20 J. As used in this section:

21 (1) "affected community" means:

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

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1 (b) an adjacent county where twenty or  
2 more displaced workers of a private detention facility that  
3 closes because of the Private Detention Facility Moratorium Act  
4 reside; and

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

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

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

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

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

22 SECTION 5. Section 31-20-2 NMSA 1978 (being Laws 1963,  
23 Chapter 303, Section 29-13, as amended) is amended to read:

24 "31-20-2. PLACE OF IMPRISONMENT--COMMITMENTS.--

25 A. Persons sentenced to imprisonment for a term of

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1 one year or more shall be imprisoned in a corrections facility  
2 designated by the corrections department, unless a new trial is  
3 granted or a portion of the sentence is suspended so as to  
4 provide for imprisonment for not more than eighteen months;  
5 then the imprisonment may be in such place of incarceration,  
6 other than a corrections facility under the jurisdiction of the  
7 corrections department, as the sentencing judge, in ~~[his]~~ the  
8 judge's discretion, may prescribe; provided that a sentence of  
9 imprisonment for one year or more but not more than eighteen  
10 months shall be subject to the provisions of Subsections D and  
11 E of this section and shall not be imposed unless the  
12 requirements set forth in Subsection D of this section are  
13 satisfied.

14 B. All commitments, judgments and orders of the  
15 courts of this state for the imprisonment or release of persons  
16 in the penitentiary of New Mexico shall run to the corrections  
17 department, but nothing contained in this section shall  
18 invalidate or impair the validity of any commitment, judgment  
19 or order of any court in this state directed to the secretary  
20 of corrections, the warden of the penitentiary of New Mexico or  
21 to the penitentiary of New Mexico, and all such commitments,  
22 judgments and orders shall be treated and construed as running  
23 to the corrections department.

24 C. There is created within the corrections  
25 department an "intake and classification center". The intake

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1 and classification center shall have the following duties:

2 (1) process all inmates sentenced or committed  
3 for purposes of diagnosis to the corrections department;

4 (2) classify inmates for housing assignments;

5 (3) develop an individualized plan for  
6 participation by each inmate in programs, work assignments and  
7 special needs;

8 (4) monitor each inmate's progress during  
9 incarceration and reclassify or modify classification  
10 assignments as may be necessary, taking into consideration the  
11 overall needs of the inmate population, institutional and  
12 facility requirements and the individual inmate's needs;

13 (5) with the approval of the secretary of  
14 corrections, may transfer inmates of the penitentiary of New  
15 Mexico to an institution under the control of another state if  
16 that state has entered into a corrections control agreement  
17 with New Mexico; and

18 (6) with the approval of the secretary of  
19 corrections, may transfer inmates to any facility, including  
20 the forensic hospital under the jurisdiction of the department  
21 of health.

22 D. A sentence of one year or more but not more than  
23 eighteen months and providing for imprisonment in a place of  
24 incarceration other than a corrections facility under the  
25 jurisdiction of the corrections department pursuant to

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1 Subsection A of this section, which shall be known as the local  
2 sentencing option, shall not be imposed unless:

3 (1) the place of incarceration is located  
4 within the county in which the crime was committed; and

5 (2) the governing authority in charge of the  
6 place of incarceration has entered into a joint powers  
7 agreement with the corrections department setting forth:

8 (a) the amount of money the corrections  
9 department shall pay for offenders sentenced to a term of one  
10 year or more but not more than eighteen months and the number  
11 of offenders ~~[which]~~ that may be sentenced to such terms; and

12 (b) any other provisions deemed  
13 appropriate and agreed to by the local governing body and the  
14 corrections department.

15 E. If a judge imposes a sentence of one year or  
16 more but not more than eighteen months and provides for  
17 imprisonment in a place of incarceration other than a  
18 corrections facility under the jurisdiction of the corrections  
19 department:

20 (1) the local governing body or its agent  
21 shall have the ability to petition that judge when the capacity  
22 of the place of incarceration is filled or when any problem  
23 develops concerning that offender requesting the judge to issue  
24 an order committing the offender to the corrections department  
25 for completion of the remainder of ~~[his]~~ the offender's

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1 sentence. A hearing on a petition pursuant to this paragraph  
2 shall be held within three days of the filing of the petition.  
3 Notwithstanding any other provision of law, the judge shall  
4 retain jurisdiction over the offender for the purpose of  
5 implementing the local sentencing option; and

6 (2) the local governing body or its agent  
7 shall keep the district judges for the judicial district in  
8 which the place of incarceration is located informed as to the  
9 capacity for the sentencing of offenders in accordance with the  
10 local sentencing option. No judge shall sentence an offender  
11 in accordance with the local sentencing option if that sentence  
12 will result in exceeding the number of offenders set forth in  
13 the joint powers agreement.

14 F. The corrections department shall file an annual  
15 report with the legislature ~~[which]~~ that shall contain the  
16 number of joint powers agreements in operation pursuant to this  
17 section, copies of those agreements, the number of offenders  
18 currently incarcerated pursuant to those agreements and any  
19 other relevant information relating to the implementation of  
20 this section.

21 G. The corrections department may enter into  
22 contracts with public ~~[or private]~~ detention facilities for the  
23 purpose of housing inmates lawfully committed to the  
24 corrections department. Any facility with which the department  
25 contracts shall meet or exceed corrections department standards

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1 prior to the housing of any inmates within the facility and  
2 shall meet certification requirements for prisons within  
3 eighteen months of entering into such contracts. The  
4 contractor shall adhere to all appropriate corrections  
5 department policies and procedures and shall agree to have  
6 staff trained at the corrections department training academy."

7 SECTION 6. A new section of Chapter 33, Article 3 NMSA  
8 1978 is enacted to read:

9 "[NEW MATERIAL] DEFINITION--JAIL ADMINISTRATOR.--For the  
10 purposes of Chapter 33, Article 3 NMSA 1978, "jail  
11 administrator" means an individual employed by a county,  
12 municipality or a combination of these, who supervises the  
13 entire operation of a jail and reports directly to the  
14 administrative head of the local governmental entity or local  
15 governing body."

16 SECTION 7. Section 33-3-1 NMSA 1978 (being Laws  
17 1865-1866, Chapter 19, Section 1, as amended) is amended to  
18 read:

19 "33-3-1. COMMON JAILS--OPERATION BY SHERIFF, JAIL  
20 ADMINISTRATOR OR PRIVATE INDEPENDENT CONTRACTOR.--

21 A. The common jails shall be under the control of  
22 the:

23 (1) respective sheriffs [~~independent~~  
24 ~~contractors~~] or jail administrators [~~hired~~] employed by the  
25 board of county commissioners or other local public body or

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1 combination thereof [~~and the same~~]; or

2 (2) private independent contractors with whom  
3 those entities have entered into a valid agreement prior to the  
4 enactment of the Private Detention Facility Moratorium Act, and  
5 only for the duration of the agreement and any extensions made  
6 to that agreement so long as the agreement is not extended to  
7 allow for the control of common jails by a private independent  
8 contractor after December 31, 2026, not to include renewals or  
9 modifications as prohibited by Section 3 of the Private  
10 Detention Facility Moratorium Act.

11 B. The common jails shall be used as prisons in the  
12 respective counties.

13 [~~B. Contracts between local public bodies and~~  
14 ~~private independent contractors for the operation or provision~~  
15 ~~and operation of a jail are specifically authorized by this~~  
16 ~~section; provided that prior to July 1, 1987, no more than two~~  
17 ~~pilot projects involving private independent contractors are~~  
18 ~~authorized in New Mexico pursuant to Section 33-3-26 NMSA~~  
19 ~~1978.]"~~

20 SECTION 8. Section 33-3-2 NMSA 1978 (being Laws 1972,  
21 Chapter 69, Section 1, as amended) is amended to read:

22 "33-3-2. JOINT AGREEMENTS FOR THE CONSTRUCTION,  
23 MANAGEMENT AND OPERATION OF CORRECTIONAL AND DETENTION  
24 FACILITIES AND JAILS.--

25 A. Notwithstanding the provisions of Subsection A  
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1 of Section 33-3-1 NMSA 1978, the board of county commissioners  
2 of a county may enter into an agreement with other counties and  
3 municipalities to provide for the construction, maintenance or  
4 operation of one or more jails or correctional or detention  
5 facilities for confinement of persons charged with crimes or  
6 violations of municipal or county ordinances or committed to  
7 jail.

8 B. The agreement authorized in Subsection A of this  
9 section:

10 (1) may provide for the control of the  
11 indicated facilities by the sheriff of the county in which the  
12 facility is located [~~or~~], by a jail administrator [~~as defined~~  
13 ~~in Section 4-44-19 NMSA 1978 or by an independent contractor~~]  
14 or by a private independent contractor if the agreement was  
15 entered into prior to the enactment of the Private Detention  
16 Facility Moratorium Act, and only for the duration of the  
17 agreement and any extensions made to that agreement so long as  
18 the agreement is not extended to allow for the control of the  
19 jails or correctional or detention facilities by a private  
20 independent contractor after December 31, 2026, not to include  
21 renewals or modifications as prohibited by Section 3 of the  
22 Private Detention Facility Moratorium Act; and [the agreement]

23 (2) shall state the manner in which the person  
24 in control shall be selected if [~~it~~] the person is other than  
25 the sheriff.

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1           C. In a class A county utilizing a joint city and  
2 county jail, municipalities shall pay a fee to the board of  
3 county commissioners for each prisoner housed in the county  
4 jail charged with municipal offenses or arrested by municipal  
5 officers. The fee shall be a reasonable fee established by the  
6 board of county commissioners and approved by the local  
7 government division of the department of finance and  
8 administration.

9           D. [~~No~~] An agreement or [~~an~~] amendment to an  
10 agreement authorized by this section is not effective until it  
11 is approved by the local government division of the department  
12 of finance and administration."

13           SECTION 9. Section 33-3-4 NMSA 1978 (being Laws 2011,  
14 Chapter 142, Section 1) is amended to read:

15           "33-3-4. INSPECTION OF JAILS AND DETENTION [~~CENTERS~~]  
16 FACILITIES--REPORT.--

17           A. Each governing body of a county or municipality  
18 shall conduct an annual site visit to the jail or detention  
19 [~~center~~] facility under its jurisdiction to inspect the overall  
20 conditions at the facility. Following a site visit, an  
21 inspection report shall be presented at a regular meeting of  
22 the governing body and provided to the risk management division  
23 of the general services department, the local government  
24 division of the department of finance and administration and  
25 the office of the attorney general.

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1                   B. The risk management division, the local  
2 government division and the office of the attorney general  
3 shall review each inspection report for compliance with each  
4 agreement with a private independent contractor entered into  
5 pursuant to Chapter 33, Article 3 NMSA 1978. The risk  
6 management division, the local government division or the  
7 office of the attorney general shall recommend termination of  
8 the agreement upon ninety days' notice to the contractor if:

9                   (1) the private independent contractor fails  
10 to meet the provisions of the agreement or fails to  
11 satisfactorily meet any contractual arrangement pursuant to  
12 Section 33-3-27 NMSA 1978;

13                   (2) the risk management division, the local  
14 government division or the office of the attorney general  
15 determines that the failure seriously impairs the availability  
16 or operation of the facility; and

17                   (3) the recommended termination is consistent  
18 with the termination provisions of the agreement."

19                   SECTION 10. Section 33-3-18 NMSA 1978 (being Laws 1889,  
20 Chapter 8, Section 4, as amended) is amended to read:

21                   "33-3-18. COUNTIES WITHOUT JAILS--ARRANGEMENTS WITH OTHER  
22 COUNTIES.--In case any county in this state lacks a jail or  
23 proper place of confinement for its prisoners, the board of  
24 county commissioners of that county shall make contractual  
25 arrangements with other counties or municipalities [~~or~~

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1 ~~independent contractors~~] for the incarceration and care of its  
2 prisoners [~~and that~~]. The jail [~~se~~] designated by [~~any~~] the  
3 board of county commissioners of any county not having a jail  
4 or other proper place of confinement shall be the legal place  
5 of confinement of the prisoners of [~~said~~] the county."

6 SECTION 11. Section 33-3-27 NMSA 1978 (being Laws 1984,  
7 Chapter 22, Section 18, as amended) is amended to read:

8 "33-3-27. JAIL AGREEMENTS--APPROVAL--LIABILITY--  
9 TERMINATION--VENUE.--

10 A. Agreements with a private independent contractor  
11 for the operation of a jail or for the incarceration of  
12 prisoners shall be made for a period of up to five years, but  
13 those agreements may allow for additional one-year, two-year or  
14 three-year extensions not to exceed a total of six extensions.  
15 Agreements binding on future governing bodies for construction,  
16 purchase or lease of a jail facility for not more than fifteen  
17 years are authorized.

18 B. All agreements with private independent  
19 contractors for the operation or provision and operation of  
20 jails shall include a performance bond and be approved in  
21 writing, prior to their becoming effective, by the local  
22 government division of the department of finance and  
23 administration and the office of the attorney general.  
24 Disapproval may be based on any reasonable grounds, including  
25 adequacy or appropriateness of the proposed plan or standards;

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1 suitability or qualifications of the proposed contractor or the  
2 contractor's employees; absence of required or desirable  
3 contract provisions; unavailability of funds; or any other  
4 reasonable grounds. No agreement shall be valid or enforceable  
5 without prior approval.

6 C. All agreements with private independent  
7 contractors for the operation or provision and operation of  
8 jails shall provide for the private independent contractor to  
9 provide and pay for training for jailers to meet minimum  
10 training standards, which shall be specified in the contract.

11 D. All agreements with private independent  
12 contractors for the operation or provision and operation of  
13 jails shall set forth comprehensive standards for conditions of  
14 incarceration, either by setting them forth in full as part of  
15 the contract or by reference to known and respected  
16 compilations of those standards.

17 E. All agreements with private independent  
18 contractors for the operation or provision and operation of  
19 jails shall be approved in writing, prior to their becoming  
20 effective, by the risk management division of the general  
21 services department. Approval shall be conditioned upon  
22 contractual arrangements satisfactory to the risk management  
23 division for:

24 (1) the contractor's assumption of all  
25 liability caused by or arising out of all aspects of the

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1 provision and operation of the jail; and

2 (2) liability insurance covering the  
3 contractor and its officers, jailers, employees and agents in  
4 an amount sufficient to cover all liability caused by or  
5 arising out of all aspects of the provision and operation of  
6 the jail. A copy of the proposed insurance policy for the  
7 first year shall be submitted for approval with the contract.

8 F. All agreements with private independent  
9 contractors for the operation or provision and operation of  
10 jails shall provide for termination for cause by the local  
11 public body parties upon ninety days' notice to the private  
12 independent contractor. A termination shall be allowed for at  
13 least the following reasons:

14 (1) failure of the private independent  
15 contractor to meet minimum standards and conditions of  
16 incarceration, which standards and conditions shall be  
17 specified in the contract; or

18 (2) failure to meet other contract provisions  
19 when the failure seriously affects the operation of the jail.

20 The reasons for termination set forth in this subsection  
21 are not exclusive and may be supplemented by the parties.

22 G. Venue for the enforcement of any agreement  
23 entered into pursuant to the provisions of this section shall  
24 be in the district court of the county in which the facility  
25 is located or in Santa Fe county.

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

4                   I. The provisions of this section apply to  
5 agreements specifically authorized pursuant to Section 33-3-1  
6 NMSA 1978."

7                   SECTION 12. Section 33-6-4 NMSA 1978 (being Laws 1939,  
8 Chapter 75, Section 5) is amended to read:

9                   "33-6-4. COUNTY COMMISSIONERS AUTHORIZED TO ACT.--The  
10 boards of county commissioners of the several counties are  
11 [~~hereby~~] authorized and empowered to enter into any [~~and all~~]  
12 contracts and to do [~~and perform~~] any [~~and all~~] things  
13 necessary and proper to carry into effect the provisions  
14 [~~hereof~~] of Chapter 33, Article 6 NMSA 1978, except that a  
15 board of county commissioners shall not enter into a contract  
16 with a private independent contractor for the operation or  
17 management of a juvenile detention home."

18                   SECTION 13. REPEAL.--Sections 33-1-17 and 33-3-26 NMSA  
19 1978 (being Laws 1985, Chapter 149, Section 1 and Laws 1984,  
20 Chapter 22, Section 17, as amended) are repealed.

21                   SECTION 14. EMERGENCY.--It is necessary for the public  
22 peace, health and safety that this act take effect immediately.