

1 SENATE BILL 465

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Linda M. Lopez

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10 AN ACT

11 RELATING TO LOCAL GOVERNMENT CORRECTIONS; PROVIDING THAT THE  
12 LOCAL GOVERNMENT CORRECTIONS FUND BE DISTRIBUTED ONLY TO  
13 COUNTIES; INCREASING THE LOCAL GOVERNMENT CORRECTIONS FEE IN  
14 COUNTIES WITH A METROPOLITAN COURT; PROVIDING THAT THE PENALTY  
15 ASSESSMENT FEE FOR LOCAL GOVERNMENT CORRECTIONS APPLIES TO ALL  
16 COUNTIES; MAKING AN APPROPRIATION.

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 33-3-25 NMSA 1978 (being Laws 1983,  
20 Chapter 134, Section 1, as amended) is amended to read:

21 "33-3-25. LOCAL GOVERNMENT CORRECTIONS FUND CREATED--  
22 ADMINISTRATION--DISTRIBUTION.--

23 A. There is created in the state treasury [a] the  
24 "local government corrections fund" to be administered by the  
25 administrative office of the courts.

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1           B. All balances in the local government corrections  
2 fund are appropriated to the administrative office of the  
3 courts for payment to counties ~~[and municipalities in counties]~~  
4 ~~with a metropolitan court for use by counties and those~~  
5 ~~municipalities]~~ for county ~~[or municipal]~~ jailer or juvenile  
6 detention officer training; for the construction planning,  
7 construction, maintenance and operation of the county detention  
8 facility, ~~[municipal]~~ jail or juvenile detention facility; for  
9 paying the cost of housing county ~~[or municipal]~~ prisoners or  
10 juveniles in any detention facility in the state; for  
11 alternatives to incarceration; or for complying with match or  
12 contribution requirements for the receipt of federal funds  
13 relating to detention facilities, jails or juvenile detention  
14 facilities. Payments shall be made quarterly upon  
15 certification by the magistrate court or metropolitan court and  
16 the motor vehicle division of the taxation and revenue  
17 department of eligible amounts as provided in Subsection C of  
18 this section.

19           C. Each county shall be eligible for a payment in  
20 an amount equal to the costs and fees collected by a magistrate  
21 court or a metropolitan court and the motor vehicle division  
22 pursuant to offenses committed within the county and deposited  
23 in the local government corrections fund ~~[provided, in a county~~  
24 ~~with a metropolitan court, the county shall be eligible for a~~  
25 ~~payment in an amount equal to costs and fees collected pursuant~~

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1 ~~to offenses committed within the boundaries of the~~  
2 ~~unincorporated areas of the county, and a municipality in that~~  
3 ~~county shall be eligible for a payment in an amount equal to~~  
4 ~~the costs collected pursuant to offenses committed within the~~  
5 ~~boundaries of the municipality].~~

6 D. Payments from the local government corrections  
7 fund shall be made upon vouchers issued and signed by the  
8 director of the administrative office of the courts upon  
9 warrants drawn by the secretary of finance and administration.

10 E. All money received by a county ~~[or a~~  
11 ~~municipality]~~ pursuant to this section shall be deposited in a  
12 special fund in the county ~~[or municipal]~~ treasury and shall be  
13 used solely for:

14 (1) county ~~[or municipal]~~ jailer or juvenile  
15 detention officer training;

16 (2) the construction planning, construction,  
17 maintenance and operation of the county detention facility,  
18 ~~[municipal]~~ jail or juvenile detention facility;

19 (3) paying the cost of housing county ~~[or~~  
20 ~~municipal]~~ prisoners or juveniles in any detention facility in  
21 the state;

22 (4) alternatives to incarceration; or

23 (5) complying with match or contribution  
24 requirements for the receipt of federal funds relating to  
25 detention facilities, jails or juvenile detention facilities."

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1           SECTION 2. Section 35-6-1 NMSA 1978 (being Laws 1968,  
2 Chapter 62, Section 92, as amended) is amended to read:

3           "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF  
4 "CONVICTED".--

5           A. Magistrate judges, including metropolitan court  
6 judges, shall assess and collect and shall not waive, defer or  
7 suspend the following costs:

8           docket fee, criminal actions under Section 29-5-1 NMSA  
9           1978 . . . . . \$ 1.00;

10          docket fee, to be collected prior to docketing any other  
11          criminal action, except as provided in Subsection B  
12          of Section 35-6-3 NMSA 1978 . . . . . 20.00.

13          Proceeds from this docket fee shall be transferred  
14          to the administrative office of the courts for  
15          deposit in the court facilities fund;

16          docket fee, twenty dollars (\$20.00) of which shall be  
17          deposited in the court automation fund and fifteen  
18          dollars (\$15.00) of which shall be deposited in the  
19          civil legal services fund, to be collected prior to  
20          docketing any civil action, except as provided in  
21          Subsection A of Section 35-6-3 NMSA 1978 . . 72.00;

22          jury fee, to be collected from the party demanding trial  
23          by jury in any civil action at the time the demand  
24          is filed or made . . . . . 25.00;

25          copying fee, for making and certifying copies of any

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1 records in the court, for each page copied by  
2 photographic process . . . . . [50] 0.50.  
3 Proceeds from this copying fee shall be transferred  
4 to the administrative office of the courts for  
5 deposit in the court facilities fund; and  
6 copying fee, for computer-generated or electronically  
7 transferred copies, per page . . . . . 1.00.  
8 Proceeds from this copying fee shall be transferred  
9 to the administrative office of the courts for  
10 deposit in the court automation fund.

11 Except as otherwise specifically provided by law, docket  
12 fees shall be paid into the court facilities fund.

13 B. Except as otherwise provided by law, no other  
14 costs or fees shall be charged or collected in the magistrate  
15 or metropolitan court.

16 C. The magistrate or metropolitan court may grant  
17 free process to any party in any civil proceeding or special  
18 statutory proceeding upon a proper showing of indigency. The  
19 magistrate or metropolitan court may deny free process if it  
20 finds that the complaint on its face does not state a cause of  
21 action.

22 D. As used in this subsection, "convicted" means the  
23 defendant has been found guilty of a criminal charge by the  
24 magistrate or metropolitan judge, either after trial, a plea of  
25 guilty or a plea of nolo contendere. Magistrate judges,

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1 including metropolitan court judges, shall assess and collect  
2 and shall not waive, defer or suspend the following costs:

3 (1) corrections fee, to be collected upon  
4 conviction from persons convicted of violating any provision of  
5 the Motor Vehicle Code involving the operation of a motor  
6 vehicle, convicted of a crime constituting a misdemeanor or a  
7 petty misdemeanor or convicted of violating any ordinance that  
8 may be enforced by the imposition of a term of imprisonment as  
9 follows:

10 in a county with a metropolitan court . . [~~\$10.00~~] \$20.00;  
11 in a county without a metropolitan court . . . . . 20.00;

12 (2) court automation fee, to be collected upon  
13 conviction from persons convicted of violating any provision of  
14 the Motor Vehicle Code involving the operation of a motor  
15 vehicle, convicted of a crime constituting a misdemeanor or a  
16 petty misdemeanor or convicted of violating any ordinance that  
17 may be enforced by the imposition of a term of  
18 imprisonment . . . . . 10.00;

19 (3) traffic safety fee, to be collected upon  
20 conviction from persons convicted of violating any provision of  
21 the Motor Vehicle Code involving the operation of a motor  
22 vehicle . . . . . 3.00;

23 (4) judicial education fee, to be collected upon  
24 conviction from persons convicted of operating a motor vehicle  
25 in violation of the Motor Vehicle Code, convicted of a crime

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1 constituting a misdemeanor or a petty misdemeanor or convicted  
2 of violating any ordinance punishable by a term of  
3 imprisonment . . . . . 3.00;

4 (5) jury and witness fee, to be collected upon  
5 conviction from persons convicted of operating a motor vehicle  
6 in violation of the Motor Vehicle Code, convicted of a crime  
7 constituting a misdemeanor or a petty misdemeanor or convicted  
8 of violating any ordinance punishable by a term of imprisonment  
9 . . . . . 5.00;

10 (6) brain injury services fee, to be collected  
11 upon conviction from persons convicted of violating any  
12 provision of the Motor Vehicle Code involving the operation of  
13 a motor vehicle . . . . . 5.00;

14 and

15 (7) court facilities fee, to be collected upon  
16 conviction from persons convicted of violating any provision of  
17 the Motor Vehicle Code involving the operation of a motor  
18 vehicle, convicted of a crime constituting a misdemeanor or a  
19 petty misdemeanor or convicted of violating any ordinance that  
20 may be enforced by the imposition of a term of imprisonment as  
21 follows:

22 in a county with a metropolitan court . . . . . 24.00;  
23 in any other county . . . . . 10.00.

24 E. Metropolitan court judges shall assess and collect  
25 and shall not waive, defer or suspend as costs a mediation fee

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1 not to exceed five dollars (\$5.00) for the docketing of small  
2 claims and criminal actions specified by metropolitan court  
3 rule. Proceeds of the mediation fee shall be deposited into  
4 the metropolitan court mediation fund."

5 SECTION 3. Section 66-8-116.3 NMSA 1978 (being Laws 1989,  
6 Chapter 318, Section 35, Laws 1989, Chapter 319, Section 14 and  
7 also Laws 1989, Chapter 320, Section 5, as amended) is amended  
8 to read:

9 "66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS--ADDITIONAL  
10 FEES.--In addition to the penalty assessment established for  
11 each penalty assessment misdemeanor, there shall be assessed:

12 A. [~~in a county without a metropolitan court~~] twenty  
13 dollars (\$20.00) to help defray the costs of local government  
14 corrections;

15 B. a court automation fee of ten dollars (\$10.00);

16 C. a traffic safety fee of three dollars (\$3.00),  
17 which shall be credited to the traffic safety education and  
18 enforcement fund;

19 D. a judicial education fee of three dollars (\$3.00),  
20 which shall be credited to the judicial education fund;

21 E. a jury and witness fee of five dollars (\$5.00),  
22 which shall be credited to the jury and witness fee fund;

23 F. a juvenile adjudication fee of one dollar (\$1.00),  
24 which shall be credited to the juvenile adjudication fund;

25 G. a brain injury services fee of five dollars

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1 (\$5.00), which shall be credited to the brain injury services  
2 fund;

3 H. a court facilities fee as follows:  
4 in a county with a metropolitan court . . . . . \$24.00;  
5 in any other county . . . . . 10.00;  
6 and

7 I. until May 31, 2014, a magistrate courts operations  
8 fee of four dollars (\$4.00), which shall be credited to the  
9 magistrate courts operations fund."

10 SECTION 4. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2011.