

LEGISLATIVE BILL 695  
Passed over the Governor's veto  
April 9, 1998.

Introduced by Cudaback, 36; D. Pederson 42; Wickersham, 49

AN ACT relating to counties; to amend sections 47-120, 47-121, and 83-4,133, Reissue Revised Statutes of Nebraska, and section 47-119, Revised Statutes Supplement, 1996; to define and redefine terms; to change and eliminate provisions relating to costs of maintaining prisoners; to provide for reimbursement for such costs; to create the County Property Tax Relief Program; to provide state aid for counties; to provide powers and duties; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 29-1002 to 29-1005, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 47-119, Revised Statutes Supplement, 1996, is amended to read:

47-119. For purposes of sections ~~47-120 and 47-119 to 47-121~~, state and sections 2 and 5 of this act:

(1) Criminal detention facility has the same meaning as in section 83-4,125; and

(2) State prisoner shall mean means a person who has been convicted and sentenced as an adult to a Department of Correctional Services adult correctional facility or placed on probation for such offense, of a felony and has started to serve the sentence imposed under such conviction.

Sec. 2. (1) The county in which a prisoner committed an offense or is alleged to have committed an offense is responsible for the cost of keeping and maintaining the prisoner in a criminal detention facility located within the state which is not reimbursed by a city, the state, or the federal government.

(2) After sentencing if a prisoner is a state prisoner, the state shall reimburse the county where the state prisoner was or is maintained in a criminal detention facility at the rate of thirty-five dollars per day for each day the state prisoner was maintained in the criminal detention facility for such offense until the day the state prisoner is transferred to a Department of Correctional Services adult correctional facility or placed on probation for such offense. The county board or county board of corrections shall request reimbursement as provided in section 47-121. If the Department of Correctional Services has been notified under section 83-4,133 that the criminal detention facility which is requesting reimbursement does not qualify for reimbursement under this section, the department shall deny the reimbursement request for the days the facility was not qualified.

(3) If a conviction on which reimbursement for prisoner costs was based is reversed and the case dismissed, the amount of such reimbursement shall be refunded as provided in section 47-121. The county attorney shall notify the sheriff or county board of corrections of the dismissal of any such case.

Sec. 3. Section 47-120, Reissue Revised Statutes of Nebraska, is amended to read:

47-120. The county board or county board of corrections serving pursuant to Chapter 23, article 28, shall provide proper quarters and adequate equipment for the preparation and serving of all meals furnished to all prisoners confined in the county jail. The county sheriff or the county board of corrections shall have full charge and control of such services and the county board shall provide for all washing, fuel, lights, and clothing for prisoners, subject to the right of the county to be paid by the state for state prisoners at the rate of three dollars and fifty cents per day reimbursement for state prisoners from the state pursuant to section 2 of this act, and subject to the right of the county to be paid by the city or federal government for city or federal prisoners at actual cost to the county. Supplies of every nature entering into the furnishing of meals, washing, fuel, lights, and clothing to the prisoners confined in the county jail shall be purchased and provided under the direction of the county sheriff or the county board of corrections. Payment for all purchases shall only be made by the county board on the original invoices submitted by the sheriff or the county board of corrections of goods, supplies, and services, setting forth (1) that the invoice correctly describes the goods as to quality and quantity, (2) that the same have been received and are in the custody of the affiant, (3) that

they have been or will be devoted exclusively to the purposes authorized in this section, and (4) that the price charged is reasonable and just. Nothing in this section shall be construed to restrict the sheriff or the county board of corrections in employing necessary personnel and from otherwise carrying out his or her the duties required in the operation of the jail.

Sec. 4. Section 47-121, Reissue Revised Statutes of Nebraska, is amended to read:

47-121. The county board of each county and the county board of corrections serving pursuant to Chapter 23, article 28, confining state prisoners within its jails shall receive three dollars and fifty cents per day reimbursement from the state pursuant to section 2 of this act for boarding such prisoners. Such boards are hereby authorized to provide such meals, fuel, lights, washing, and clothing as may be necessary for the comfort of such prisoners while in custody in their the county. The sheriff or county board of corrections shall, on the first day of January, April, July, and October of each year a regular basis not less than quarterly nor more than monthly, make a report in writing to the Director of Administrative Correctional Services of the number of state prisoners in custody in such county for whom reimbursement is claimed and the number of days for which reimbursement is claimed and the number of state prisoners for whom reimbursement was obtained under section 2 of this act and the amount of reimbursement to be refunded. Such report shall be consistent with the rules and regulations adopted and promulgated by the Department of Correctional Services. All claims for reimbursement the last three months before making its report, when committed, and for what time, the amount due the county board for boarding such prisoner or prisoners, the amount of clothing furnished each prisoner and the costs of the same, and the amount expended for washing, lights, and fuel for that quarter, which amount shall be sworn to by the sheriff or a designated representative of the county board of corrections before the clerk of the county and certified to under his or her seal. Thereupon the director shall quarterly draw his or her request that a warrant be drawn upon the State Treasurer for the amount due to the county treasurer of the county, and the amount drawn shall be credited to the general fund of the county. When conditions require a constant guard to be kept to prevent the escape of prisoners confined therein, the sheriff shall be allowed actual costs per day for guarding or procuring guard for such prisoners, which shall be paid to him or her quarterly by the governmental unit responsible for the commitment of the prisoner.

Sec. 5. The Department of Correctional Services may adopt and promulgate rules and regulations to implement sections 47-119 to 47-121 and sections 2 and 5 of this act.

Sec. 6. Section 83-4,133, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,133. If the governing body of the juvenile detention facility or criminal detention facility fails to initiate corrective action within six months of after the receipt of such inspection report, fails to correct the disclosed conditions, or fails to close the criminal detention facility or juvenile detention facility or the objectionable portion thereof, the Jail Standards Board may shall advise the Department of Correctional Services that the criminal detention facility does not qualify for reimbursement for state prisoners under section 2 of this act and at the same time or at a later date may petition the district court within the judicial district in which such facility is located to close the facility. Such petition shall include the inspection report regarding such facility. The local governing body shall then have thirty days to respond to such petition and shall serve a copy of the response on the Jail Standards Board by certified mail, return receipt requested. Thereafter, a hearing shall be held on the petition before the district court, and an order shall be rendered by such court which either:

- (1) Dismisses the petition of the Jail Standards Board;
- (2) Directs that corrective action be initiated in some form by the local governing body of the facility in question; or
- (3) Directs that the facility be closed. An appeal from the decision of the district court may be taken to the Court of Appeals.

If the Jails Standards Board petitions to have the facility closed, the local governing body may challenge the no reimbursement for state prisoners determination in that action, and if there is no petition to close the facility, the local governing body may challenge the no reimbursement for state prisoners determination by filing an action in district court.

Sec. 7. (1) The County Property Tax Relief Program is created. The program shall be used to distribute money to county governments to provide property tax relief and equalize county capacity to pay for public services from property taxes. Funds shall be distributed on or before September 1 each

year by the Department of Revenue according to the formula created in this section.

(2) The department shall calculate the amount to be distributed to each county as follows:

(a) The county capacity shall be determined for each county. This amount is the assessed value of the county for the prior year multiplied by the county local effort rate, which is .018, divided by the number of road miles maintained by the county;

(b) The statewide county capacity shall be determined. This amount is the statewide assessed value for the prior year multiplied by the county local effort rate, which is .018, divided by the number of road miles maintained by all counties;

(c) The amount of aid due a county shall be determined by subtracting the county capacity from the statewide county capacity, if the result is a positive number, this amount multiplied by the number of county road miles is the amount to be distributed to the county subject to subdivision (d) of this subsection; and

(d) The amount distributed to a county shall not exceed an amount equal to the result of a tax rate of five cents per one hundred dollars on the assessed value of the county.

(3) The Department of Roads shall provide the county road-mile information for all counties each year to the Department of Revenue. The information provided shall be the same as determined under section 39-2507.

(4) The Legislature shall appropriate five million five hundred thousand dollars for fiscal year 1998-99 to the program from the General Fund for purposes of this section.

Sec. 8. Section 5 of this act becomes operative on January 1, 1999. Sections 7 and 8 of this act become operative on their effective date. The other sections of this act become operative July 1, 1999.

Sec. 9. Original sections 47-120, 47-121, and 83-4,133, Reissue Revised Statutes of Nebraska, and section 47-119, Revised Statutes Supplement, 1996, are repealed.

Sec. 10. The following sections are outright repealed: Sections 29-1002 to 29-1005, Reissue Revised Statutes of Nebraska.