

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT CERTAIN COSTS PAID BY AN ARRESTING  
5 AGENCY OR THE DEPARTMENT OF CORRECTIONS TO THE OPERATOR OF A DETENTION CENTER BE  
6 BASED ON ACTUAL COSTS; PROVIDING REQUIREMENTS FOR ACCOUNT OF COST CALCULATIONS;  
7 AMENDING SECTIONS 7-32-2241, 7-32-2242, AND 53-30-106, MCA; AND PROVIDING AN EFFECTIVE  
8 DATE."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11  
12 **Section 1.** Section 7-32-2241, MCA, is amended to read:

13 **"7-32-2241. Definitions.** As used in this part, the following definitions apply:

14 (1) "Actual costs" means the actual and allocable direct and indirect costs of holding a person in  
15 confinement net of any program credits. The term includes but is not limited to:

16 (a) regular and overtime salaries of all full-time or part-time personnel who work at a detention center;

17 (b) personnel benefits, including but not limited to health insurance, state and federal payroll taxes,  
18 retirement plan costs, workers' compensation, and other employer-paid benefits;

19 (c) direct operating costs;

20 (d) consultants and contracted services;

21 (e) equipment depreciation;

22 (f) building depreciation; and

23 (g) indirect costs not to exceed 6% unless verified by a certified cost rate analysis.

24 ~~(2)~~(2) "Detention center" means a facility established and maintained by an appropriate entity for the  
25 purpose of confining arrested persons or persons sentenced to the detention center.

26 ~~(2)~~(3) "Detention center administrator" means the sheriff, chief of police, administrator,  
27 superintendent, director, or other individual serving as the chief executive officer of a detention center.

28 ~~(3)~~(4) "Detention center staff" means custodial personnel whose duties include ongoing supervision of

1 the inmates in a detention center.

2 (4)(5) "Inmate" means a person who is confined in a detention center.

3 (5)(6) "Local government" means a city, town, county, or consolidated city-county government.

4 (6)(7) "Multijurisdictional detention center" means a detention center established and maintained by  
5 two or more local governments for the confinement of persons arrested or sentenced to confinement or a local  
6 government detention center contracting to confine persons arrested or sentenced in other local governments.

7 (7)(8) "Private detention center" means a detention center owned by private industry and leased to or  
8 operated under a contract with a local government.

9 (9) "Program credits" means revenue reimbursements or fees paid to support the operation of a  
10 detention facility. The term includes but is not limited to federal school lunch reimbursements, insurance  
11 rebates, and commissions earned from inmates' use of long-distance telephone services.

12 (b) The term does not include payments received by the operator of a detention center from other  
13 jurisdictions for inmate lodging costs."

14

15 **Section 2.** Section 7-32-2242, MCA, is amended to read:

16 **"7-32-2242. Use of detention center -- payment of costs.** (1) Local government, state, and federal  
17 law enforcement and correctional agencies may use any detention center for the confinement of arrested  
18 persons and the punishment of offenders, under conditions imposed by law and with the consent of the  
19 governing body responsible for the detention center.

20 (2) (a) ~~Except as provided in 7-32-2245 or subsection (2)(b) of this section, if a person is confined in~~  
21 a detention center by an arresting agency not responsible for the operation of the detention center, the costs of  
22 holding the person in confinement must be paid by the arresting agency at a rate that is ~~agreed upon by the~~  
23 ~~arresting agency and the detention center and that covers the reasonable costs based on the actual costs of~~  
24 confinement, excluding capital construction costs, ~~except as provided in 7-32-2245 or subsection (2)(b) of this~~  
25 ~~section unless otherwise agreed to by the arresting agency and the operator of the detention center.~~

26 (b) If a city or town commits a person to the detention center of the county in which the city or town is  
27 located for a reason other than detention pending trial for or detention for service of a sentence for violating an  
28 ordinance of that city or town, the costs must be paid by the county, except as provided in 7-32-2245. If the

1 department of corrections is the arresting agency and the inmate is a probation violator, the costs must be paid  
 2 by the county in which the district court that retains jurisdiction over the inmate is located, except as provided in  
 3 7-32-2245.

4 (c) Payments must be made to the government unit responsible for the detention center or to the  
 5 administrator operating a private detention center under an agreement provided for in 7-32-2201, upon  
 6 presentation of a claim to the arresting agency.

7 (d) All cost calculations must be accounted for:

8 (i) in accordance with generally accepted accounting principles;

9 (ii) net of any applicable credits; and

10 (iii) based on the greater of the previous year's average prisoner census or the number of fixed beds  
 11 as of July 1.

12 (e) Actual costs of a detention center may be audited in accordance with Title 2, chapter 7, part 5, at  
 13 the expense of the requesting agency

14 (3) If a person is a fugitive from justice from an out-of-state jurisdiction, the costs, including medical  
 15 expenses, of holding the person in a detention center pending extradition must be paid by the out-of-state  
 16 jurisdiction."

17

18 **Section 3.** Section 53-30-106, MCA, is amended to read:

19 **"53-30-106. Excessive inmate population -- confinement of inmates in other institutions.** (1) If  
 20 the inmate population of a correctional institution or system exceeds the emergency capacity for 30 consecutive  
 21 days, the director of the department of corrections may declare that the emergency capacity has been  
 22 exceeded and temporarily stop admissions to the institution or system. The director shall notify each sheriff and  
 23 district court that new inmates will not be accepted by the department for admission into the institution or  
 24 system until the inmate population is reduced to 95% or less of the emergency capacity. Persons committed to  
 25 the department and persons sought to be admitted remain in the department's legal custody but must be kept in  
 26 a detention center in the jurisdiction holding them. In the event the jurisdiction holding the inmate is at maximum  
 27 capacity, the inmate may be placed in an available detention center in another jurisdiction. The department  
 28 shall reimburse that jurisdiction for the cost of detention for the period beyond the normal time of delivery to a

1 correctional institution administered by the department. Reimbursement must be ~~at a rate mutually agreeable to~~  
2 based on the actual costs of confinement, unless otherwise agreed to by the department and the jurisdiction  
3 holding the person. The rate must cover the reasonable costs of the holding jurisdiction. Expenses for  
4 medication, medical services, or hospitalization for persons confined in a detention center under this section  
5 must be paid by the department.

6 (2) The department may enter into contracts with the federal government, other states, or the  
7 commissioners of counties that have suitable detention centers for confining inmates committed to a  
8 correctional institution or system administered by the department, either because a correctional institution or  
9 system has exceeded its emergency capacity or because the department has no institution that is adequate for  
10 certain inmates.

11 (3) Within budgetary limits, the department may also enter into contracts with public or private  
12 corporations for the confinement of selected inmates if suitable programs have been established.

13 (4) As used in this section, "actual costs" has the meaning provided in 7-32-2241.  
14

15 NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2021.

16 - END -