

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Sanchez, M DATE TYPED 2-5-04 HB \_\_\_\_\_

SHORT TITLE Earned Meritorious Deductions for Parolees SB 254

ANALYST Reynolds-Forte

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			(\$407.0) See Narrative	Recurring	General Fund (Corrections Dept.)
			\$5.1	Recurring	General Fund (Parole Board)

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	Minimal	Minimal	Recurring	Probation and Parole Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Corrections Department  
 Attorney General's Office  
 Adult Parole Board  
 Juvenile Parole Board

New Mexico Sentencing Commission  
Public Defenders Office  
Administrative Office of the Courts

## **SUMMARY**

### Synopsis of Bill

Senate Bill 254 would allow the Corrections Department and the Adult Parole Board to award meritorious deductions or “good time” to inmates who are released from prison and who are serving a parole term. Certain sex offenders are excluded from eligibility. “Good time” deductions from the parole term are conditioned upon the parolee complying with all conditions of parole, and the maximum amount of deductions is 30 days per month. The effect of such deductions is to allow parolees to reduce their term of parole by up to one half. The concept is almost identical to the “good time” that prison inmates can earn to reduce the length of their prison sentence.

“Good time” would be awarded upon recommendation of the supervising parole officer and final approval of the Adult Parole Board. The Adult Parole Board could also forfeit previously awarded “good time” if the parolee later failed to comply with the conditions of parole.

### Significant Issues.

The most significant issue to the Corrections Department is that the bill will give parolees a powerful and affirmative incentive to comply with their conditions of parole. Currently, the only motivation that parolees have to comply with their conditions of parole is the threat of parole revocation. Allowing parolees to earn “good time” to reduce their term of parole would create the positive incentive factor to compliment the negative disincentive that is the threat of parole revocation. In other words, there would be the “carrot” to compliment the “stick.”

The bill has a July 1, 2004 effective date.

## **FISCAL IMPLICATIONS**

### Corrections Department

The Corrections Department estimates the bill should result in moderate cost savings to the Department. Since parole terms could be shortened, the bill should reduce the parole caseloads. The bill could possibly reduce the absolute number of persons on parole at any given day, but it would certainly reduce the rate of growth in parole caseloads. The bill will offset the cost increases that will result from the law extending the parole periods of sex offenders to a maximum of twenty years. The current number of offenders on only parole supervision (as opposed to dual supervision on probation and parole) by the Department is approximately 1500. The Department estimates that this bill would result in an average reduction in the length of parole terms by a factor of approximately twenty-five percent (25%). The average cost per year per offender for standard parole supervision is \$1452.

Because caseloads are high and a reduction in the number of parolees will not directly result in a corresponding reduction in the number of parole officers), the Department estimates the cost savings could range from \$200,000 to \$544,500 per year from the reduction in caseloads.

The number of technical parole violators who are incarcerated in prison on any one day is approximately 100. The Department estimates the shorter parole terms that result from this bill could reduce the number of technical parole violators in Department prison by approximately 10 to 20 inmates. The average annual cost of housing a male inmate in a privately operated prison, where most technical parole violators are housed, is \$20,200. The Department roughly estimates that the cost savings could range from approximately \$207,000 to \$414,000 per year from the reduction in the number of incarcerated technical parole violators.

Finally, there will be a minimal decrease in revenue from parole supervision fees due to the shorter periods of parole.

#### Adult Parole Board

The Parole Board estimates that they would need to conduct Administrative Hearings on a monthly basis to review recommendations from the Probation Parole Officer to determine eligibility and vote on such actions. Such hearings would cost the following:

12 hearings a year, with 3 board members present  
Per diem total – \$3,420.00  
Mileage total - \$ 1,710.00  
Grand total - \$5,130.00

### **ADMINISTRATIVE IMPLICATIONS**

#### Corrections Department

The Corrections Department's probation and parole caseloads are extremely high; and allowing parolees to earn "good time" to shorten their parole term would assist in reducing the parole caseloads. The effect of this bill in reducing parole caseloads will offset the growth in parole caseloads that will result from the recently enacted law that extends the parole period for sex offenders to a maximum of twenty (20) years.

#### Adult Parole Board

The Adult Parole Board would need to conduct administrative hearings to award and remove meritorious deductions. This will mean additional work for the board members.

#### Attorney General's Office

The Attorney General's Office believes Senate Bill 254 could have some administrative implications for their office. Currently, inmates who have had good time forfeited due to serious misconduct in prison are entitled to a hearing with the opportunity to call witnesses and present evidence on their behalf. Inmates can then appeal forfeitures of good time to district court and can then appeal decisions of the district court to the New Mexico Supreme Court. The Attorney General's Office represents the Department of Corrections in these appeals. If decisions to revoke good time from parolees are appealable, it may increase the caseload for this agency requiring additional staff.

## **TECHNICAL ISSUES**

The Attorney General's Office suggests an amendment which would clearly delineate which offenders are subject to the bill's scheme. For example, it could apply to offenders placed on parole after the effective date of the act. They also suggested that a procedural provision be added providing for the process during the parole revocation hearing for revocation of good time, in addition to provisions stating whether a decision by the parole board can be appealed to the district court or whether decisions by the parole board are final.

## **OTHER SUBSTANTIVE ISSUES**

The Corrections Department believes allowing parolees to earn "good time" should help to reduce the rate of growth in the prison population. Some offenders currently prefer to serve their parole time in prison, in part because they can reduce the length of their parole term by earning "good time" while in prison. Therefore, an offender who has been released on parole sometimes believes that one "advantage" to being returned to prison as a parole violator would be that once returned to prison, the remaining parole term can be reduced by earning "good time" in prison. Allowing parolees to earn "good time" while in the community on parole status would eliminate this disparity.

Further, once a parolee who had earned "good time" (and shortened the parole term) and had been discharged from parole, this offender could not be returned to prison as a so-called "technical" parole violator. A "technical" parole violation is the violation of parole conditions that does not constitute a criminal offense. The most common types of "technical" parole violation are failure to report to the parole officer and testing positive for alcohol or drugs. Obviously, if parole terms were shortened and fewer "technical" parole violators were returned to prison, this could reduce the growth rate of prison population.

**PRF/lg**