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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/20/06  
 LAST UPDATED 2/1/06      HB \_\_\_\_\_

SPONSOR Martinez

SHORT TITLE Revise Prison Earned Meritorious Deductions      SB 21/aSJC/aSFL#1

ANALYST Peery

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
NA	NA	NA	NA

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Sentencing Commission (NMSC)

New Mexico Corrections Department (NMCD)

#### No Response From

Adult Parole Board (APB)

### SUMMARY

#### Synopsis of SFL#1 Amendment

Senate Floor Amendment #1 to Senate Bill 21 as amended by the Senate Judicial Committee, adds the following language on page 2, line 21, after the word “offense”: “or failed to pass a drug test administered as a condition of parole”.

#### Synopsis of the SJC Amendment

The Senate Judiciary Committee amendment for Senate Bill 21 deletes of the following language: “fourth degree aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3) third degree assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978; 4) fourth degree aggravated assault against a household member, as provided in Section 30-3-13 NMSA 1978; 5) third degree assault against a household member with intent to commit a violent felony, as provided in Section 30-3-14 NMSA 1978; 6)”. The amendment also calls for renumbering the succeeding items. It should be noted the language defining a fourth degree aggravated assault and third degree assault with intent to commit a violent felony as a serious violent offense is currently in statute.

Synopsis of Original Bill

Senate Bill 21 amends a section of law regarding award of earned meritorious deductions to state inmates. The proposed legislation elevates certain assault and battery offenses against household members to “serious violent offender” status; streamlines the Corrections Department’s administrative authority to award, forfeit and restore earned meritorious deductions; increases the number of maximum earned meritorious deductions from eight to 30 per month for non-violent offenders confined for parole revocations excluding absconding and commission of a new felony offense; clarifies that award of earned meritorious deductions to parolees is available to offenders serving parole on July 1, 2004 or who begin serving parole after that date; and authorizes award of earned meritorious deductions to non-violent offenders during the first 60 days or receipt by the Corrections Department.

**FISCAL IMPLICATIONS**

The NMSC estimates the proposed legislation would free up to an additional 81 beds for the Corrections Department. The latest figure on average cost per day to house an inmate in the New Mexico Corrections Department is \$81.83 in FY04. The estimated savings to the Corrections Department is \$2,419,303. However, due to most correctional facilities for males being near and for female over capacity it is likely the additional 81 beds will be filled quickly.

NMCD reports the proposed legislation will slow the rate of prison growth by allowing non-violent technical parole violators to be released or discharged from prison earlier because of earning larger amounts of good time, up to 30 days per month, while serving their parole time in prison. However, the proposed legislation does make change certain assault and battery offenses against household members to “serious violent offender” status that allow convicted offenders to earn at most only four days per month of good time instead of up to 30 days per month.

NMCD states the proposed legislation would assist the department in reducing its parole caseloads by allowing an additional group of offenders, those who are currently serving a parole term as of July 1, 2004 or who begin serving a parole term after July 1, 2004, to be eligible to earn good time.

**SIGNIFICANT ISSUES**

The Senate Judiciary Committee amendment allows for individuals with fourth degree aggravated assault, third degree assault with intent to commit a violent felony, fourth degree aggravated assault against a household member, and third degree assault against a household member with intent to commit a violent felony are eligible to earn up to 30 days per month of time served during a parole term following revocation. NMCD reports the amendment appears to remove these crimes from being considered serious violent offenses under judges’ discretion or as defined as a serious violent offense within the proposed legislation. If so, NMCD states it removes these crimes from ever being considered serious violent offenses.

Offenders currently do not earn earned meritorious deductions during the first 60 days in prison. NMSC estimates, if the current earned meritorious deduction policy was revised to allow credit to be earned the first 60 days of a non-violent offender’s sentence, on average an inmate’s time serve would be reduced by 29.2 days. It is estimated that this would free up to an additional 81 beds for the Corrections Department. On November 30, 2005 there were 129 male inmate beds available and female inmates were over capacity by 58 beds. NMCD reported there were 71 general population beds available at the end of November 2005.

## **PERFORMANCE IMPLICATIONS**

NMCD reports by being able to more quickly reduce the number of nonviolent offenders in the prison system the prison staff would have more time and resources to devote to the safe operation of prisons and housing of inmates still in prison.

## **ADMINISTRATIVE IMPLICATIONS**

NMCD reports the proposed legislation would give the department the administrative flexibility and efficiency to:

- Allow inmates to become eligible for earned meritorious deductions by actively participating in programs recommended by the classification supervisor and approved by the warden's designee, instead of requiring that the programs be recommended by only the entire classification committee and approved by only the warden.
- Allow inmates to earn good time based on the recommendations of the classification supervisor and the approval of the warden's designee, instead of requiring that good time be awarded when recommended by only the entire classification committee and approved by only the warden.
- Have the warden's designee determine if a locked down inmate (unable to program) should continue to be awarded good time, instead of requiring that only the warden make that determination.
- Have the classification supervisor and the warden's designee make recommendations as to the number of days of lump sum awards for inmates, instead of requiring that only the classification committee and only the warden make those recommendations.
- Have the designee of the director of the adult prisons division approve or determine lump sum awards, instead of requiring that only the director himself make those approvals or determinations.
- Deny eligibility for good time to any prisoner not actively participating in programs recommended and approved by classification supervisor, instead of requiring that the programs be recommended and approved by the entire classification committee.
- Forfeit up to 90 days of an inmate's good time based on the recommendation of the classification supervisor and the final approval of the warden's designee, instead of requiring recommendations from only the classification committee and final approval from only the warden.
- Forfeit more than 90 days of an inmate's good time based on the recommendations of the classification supervisor and the warden's designee and the final approval of the designee of the director of the adult prisons division, instead of requiring the recommendations of the entire classification committee and the warden and the final approval of only the director.
- Restore lost good time based on the recommendation of the classification supervisor, the approval of the warden's designee, and the final approval of the director of the adult prisons division, instead of requiring the recommendations of the entire classification committee, the approval of only the warden, and the final approval of only the secretary of corrections.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The proposed legislation incorporates components of Senate Bill 599, Senate Bill 600 and Senate Bill 601 from the 2005 legislative session.