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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/07  
 LAST UPDATED 2/24/07      HB 233/aHHGAC/aHAFC

SPONSOR Stewart

SHORT TITLE Prerelease Benefits Assistance Act      SB \_\_\_\_\_

ANALYST Weber

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>			\$240.0	\$240.0	Recurring	General Fund
			\$360.0	\$360.0	Recurring	Federal Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Corrections (NMCD)  
 Public Defender (PD)  
 Human Services Department (HSD)  
 Adult Parole Board (APB)

### SUMMARY

#### Synopsis of the HAFC Amendment

The House Appropriations and Finance Committee amendment made the following changes.

1. On page 1, line 17, strike “; MAKING AN APPROPRIATION”.
2. On page 8, strike Section 8 in its entirety.

Striking Section 8 eliminates the \$225 thousand appropriation. However, this does not eliminate the fiscal impact noted in the original and HHGAC amended version of HB 233. To account for the continuing expenditure requirement the ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT section is left intact while the APPROPRIATION and REVENUE sections are deleted.

Synopsis of the HHGAC Amendment

The substantial change resulting from the amendment is to eliminate the “other detention or confinement facility” in the definition of incarcerated. Then the facilities are more closely defined to just prisons and state juvenile facilities. HSD then estimates 9 as a reasonable number of additional caseworkers. This puts the annual cast at an approximate total of \$600 thousand. With a federal matching rate of 60 percent the annual general fund cost would be \$240 thousand.

In addition, the amendment clears up technical issues pointed out by HSD.

Synopsis of Original Bill

House Bill 233 appropriates \$225 thousand from the general fund to the Human Services Department for the purpose of implementing the Prerelease Benefits Assistance Act.

This act facilitates the community reintegration of persons with mental disorders or developmental disabilities upon their release from jail, prison, detention centers or other correctional facilities. It would enable released persons to receive entitled benefits promptly upon their release from incarceration.

The New Mexico Corrections Department (NMCD), Children, Youth and Families Department (CYFD), and facility administrators are required to take reasonable action to negotiate prerelease agreements with local offices of the federal social security administration to ensure that applications for supplemental security income (SSI) benefits and social security disability income (SSDI) benefits are promptly processed. Prerelease agreements shall be negotiated within 90 days of the effective date of this act. Agreements shall ensure (1) prompt consideration of applications, and (2) the social security administration is informed of the actual release date of persons covered under this act.

The bill requires the Human Services Department (HSD) in conjunction with NMCD, CYFD and facility administrators to ensure reinstatement of social security disability benefits, supplemental social security benefits, and Medicaid benefits during the month of a person’s release. With the person’s permission, persons covered under this act shall be given an application for reinstatement of benefits and provided assistance in completing and filing it at least 30 days prior to release. This assistance is to be provided by competent staff familiar with the characteristics of successful applications throughout the application process.

For persons covered by this act that have been terminated from or not enrolled in SSI, SSDI, and/or Medicaid, HSD, in conjunction with NMCD and CYFD, shall establish benefit application procedures in anticipation of release within thirty days from the date of receipt of the application. If the person is determined eligible for benefits, the person must be enrolled in the program while incarcerated and provided proper documentation to enable the person to receive benefits upon release.

The bill requires NMCD and CYFD to provide persons covered under this act with photo identification upon release.

If implementation of the Prerelease Benefits Assistance Act requires an amendment to the

Medicaid state plan, HSD shall apply for such an amendment within ninety days of the effective date of the act and take reasonable actions to obtain federal approval of the amendment.

### **FISCAL IMPLICATIONS**

The appropriation of \$225 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of Fiscal Year 2008 shall revert to the general fund.

In addition HSD notes.

Program costs and administrative costs would increase, as more eligible individuals would receive benefits such as Medicaid.

HB233 implies the “Prerelease Benefits Assistance Act” applies to any incarcerated individual confined in a public or private prison, juvenile detention facility or other detention facility. There is no designation of limitation of the facilities and this would have a significant administrative impact for HSD caseworkers throughout the state for assisting with the application process prior to release and determining eligibility. Without further definition to limit the number of facilities, HB 233 could apply to all jails in the state. If so, HSD would need significantly more FTE to carry out HB233 and the appropriation in this bill is inadequate.

If the bill were amended to implement HB233 for just prison and CYFD detention facilities and not “other detention or confinement facility, HSD would need 9 additional FTE. This would provide additional caseworkers near locations of prison and CYFD detention facilities in NM that include Albuquerque, Santa Fe, Farmington, Las Cruces, Grants, Hobbs, Los Lunas, and Santa Rosa. Aside from staff salaries, HSD would incur startup costs for purchase of purchase of nine laptop computers and network access, travel, and supplies. This would be paid for from the \$225.0 appropriation.

LFC estimates that 9 FTE plus other costs would amount to an approximate total of \$600 thousand annually. With a federal matching rate of 60 percent the annual general fund cost would be \$240 thousand. Without the limitation on covered facilities the cost would be much higher. A potential number could be one extra FTE per county office or 22 FTE in addition to the 9. This would increase the annual cost to approximately \$825 thousand from the general fund and \$1.24 million in matching federal funds.

### **SIGNIFICANT ISSUES**

HSD reports the following issues.

Section 2 DEFINITIONS includes a definition for “suspended”. The term “suspended is not used elsewhere in the act and should not be included as part of definitions as suspension of benefits for Medicaid and Food Stamps is not allowed under federal regulations. The definition also references food stamps that are not mentioned elsewhere in the act. As this is the only reference to the term suspend and the only reference to the Food Stamp Program. It is unclear why the definition is developed and not used within the act.

The Social Security Administration’s SSI program does allow for the processing of an SSI

application several months before an individual's anticipated discharge or release from a public institution. A pre-release agreement can be developed between an institution and the local Social Security office.

HSD can only furnish the proper documentation to eligible households once a determination has been made that the applicant household is eligible to participate in the Food Stamp or Medicaid Program and is contingent on the anticipated household circumstance the individual may be in upon release.

It is not apparent whether or not the special identification (including photo ID) of a person with a mental illness is a violation of that person's civil rights. Although the bill provides for getting permission from the individual, it may raise ADA issues.

The identification and pre-release application process remains contingent on the timely and coordinated notice of release by the corrections department.

The Human Services Department has been a part of the HJM 53 multi-agency task force, convened by NMCD, which is studying barriers to, among other things, public benefits. As part of that initiative, HSD has established protocols to expedite application processing in coordination with NMCD Discharge Planners and other personnel as appropriate, to allow them to assist persons in discharge status.

The bill provides for persons covered under the act to be issued a photo ID upon release to aid in providing eligibility verification documents. As a result of DRA changes, there are additional eligibility requirements that must be met for the Medicaid program and applicants or recipients of Medicaid must also have documentary proof of citizenship as well as identification.

The state and federal government currently approve eligibility for SSI and other entitlement based programs beginning with the first day of the month of application if all factors of eligibility are met.

Some Medicaid benefits are contingent upon SSI or SSA Disability determination.

MW/mt