

LFC Requester:	Sanchez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION
WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: January 29, 2025 *Check all that apply:*
Bill Number: SB17 Original Correction
Amendment Substitute

Sponsor: Sen. Jaramillo and Rep. N. Chavez **Agency Name and Code** AOC-218
Short Title: Parole & Parole Board Changes **Number:** _____
Title: _____ **Person Writing** Artie Pepin
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

SB17 establishes specific considerations when the parole board considers parole of a person with a life sentence who has served the 30-year “retributive” (punishment) portion of the sentence. The considerations include: substantial compliance with the rules of the correctional institution; participation in an educational, vocational or other available program; and any input from the family or representative of the victim, if the family or representative chooses to participate (Section 1.A). In addition, the parole board “shall not schedule a hearing on the anniversary of the birth or death of the person or persons whose death is the basis for the homicide conviction, when practicable” (Section 4).

SB17 also provides that a member of the parole board may only be removed during the member’s term in office for incompetence, neglect of duty or malfeasance in office by a proceeding commenced by the board or by the governor with notice and an opportunity to be heard before removal. In addition, the “supreme court has original jurisdiction over proceedings to remove members of the parole board, and the supreme court's decision shall be final. A member of the parole board is also liable for impeachment pursuant to Article 4, Section 36 of the constitution of New Mexico.”

FISCAL IMPLICATIONS

The parole board’s budget may be impacted by additional process involved if a removal action is commenced, including a hearing and representation of the parole board, if needed, before the supreme court.

SIGNIFICANT ISSUES

Life Sentence Parole Considerations – Setting out specific considerations not now found in statute appears to make the process for life sentence parole following a thirty-year confinement more transparent. The policy of adding an opportunity for input from the victim’s family may be intended to be consistent with the purpose behind the rights of crime victims in NM Constitution, Article II, section 24.

Process to Remove a Parole Board Member – Parole board members serve staggered six-year terms. SB17 removes the current provision that only refers to the governor’s authority in NM Constitution, article V, section 5, to remove “any officer appointed by him unless otherwise provided by law.” The process set forth in SB17 appears intended to exercise the legislature’s authority to provide a process for removal “by law.” This appears to be an authorized exercise of legislative power. *See e.g. State ex rel. NM Judicial Standards Commission v. Espinosa*, 2003-NMSC-017, para. 29, upholding the governor’s authority under section V, paragraph 5, to remove commissioners in the absence of limiting legislation; “Similarly, for many executive boards the Legislature has exercised its authority to expressly limit the Governor's removal power. It has done so by specifying the reasons for which an appointee can be removed, or by requiring notice and a hearing prior to removal. As one of many examples, members of the lottery authority "may be removed by the governor for malfeasance, misfeasance or willful neglect after reasonable notice and a public hearing unless the notice and hearing are expressly

waived in writing by the member." NMSA 1978, § [6-24-5](#) (1995). For some entities the Legislature has required the consent of two thirds of the Senate. See NMSA 1978, § [52-9-5](#) (1991) (employers mutual company board of directors); NMSA 1978, § [58-29-5](#) (2001) (small business investment corporation). By imposing a similar limit on the Governor's removal power, the Legislature could prevent future governors from making wholesale changes to the Commission while at the same time allowing for removal for cause."

SB17 also states the supreme court shall have original jurisdiction and final decision authority over proceedings to remove parole board members (Section 3.C). The New Mexico Constitution provides in Article VI, section 3, the "supreme court shall have original jurisdiction in quo warranto and mandamus against all state officers, boards and commissions. . ." In the *Espinosa* case cited above (2003-NMSC-017, para. 4) the Supreme Court held a writ seeking relief *quo warranto* was appropriate to challenge the governor's removal authority of appointed state officials. Although the supreme court has on numerous occasions upheld its authority to exercise original jurisdiction in challenges to actions that draw parallels to removal of parole board members, it is unclear that it is for the legislature to confer such jurisdiction as exists in the NM Constitution.

SB17 provides for notice and an opportunity to be heard before a parole board member is removed for one of the bases provided in the bill. With SB17's immediate reference to the supreme court's original jurisdiction after establishing the opportunity to be heard, it is not clear if the bill contemplates an evidentiary hearing in the supreme court, which would be highly unusual. The circumstances for removal in the bill suggest the need for findings of fact that are appropriate to an administrative or district court proceeding. SB17 would benefit from clarifying where the bill contemplates the opportunity to be heard will occur.

PERFORMANCE IMPLICATIONS

Any increase in the supreme court's consideration of cases generated by challenges to parole board membership appears to be incidental.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The governor will retain discretion to remove those appointed to the parole board without defined criteria.

AMENDMENT

Establish a forum for finding the facts necessary to support removal of a parole board member. SB17 may contemplate and administrative hearing but that is not clear.