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AN ACT

RELATING TO CORRECTIONS; PROVIDING EARNED MERITORIOUS  
DEDUCTIONS FOR PAROLEES; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 33-2-34 NMSA 1978 (being Laws 1999, Chapter 238,  
Section 1, as amended) is amended to read:

"33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS DEDUCTIONS.--

A. To earn meritorious deductions, a prisoner confined in a  
correctional facility designated by the corrections department must be an active  
participant in programs recommended for the prisoner by the classification  
committee and approved by the warden. Meritorious deductions shall not exceed  
the following amounts:

(1) for a prisoner confined for committing a serious violent  
offense, up to a maximum of four days per month of time served;

(2) for a prisoner confined for committing a nonviolent  
offense, up to a maximum of thirty days per month of time served;

(3) for a prisoner confined following revocation of parole for  
the alleged commission of a new felony offense or for absconding from parole, up to  
a maximum of four days per month of time served during the parole term following  
revocation; and

(4) for a prisoner confined following revocation of parole for a  
reason other than the alleged commission of a new felony offense or absconding  
from parole, up to a maximum of eight days per month of time served during the  
parole term following revocation.

B. A prisoner may earn meritorious deductions upon  
recommendation by the classification committee, based upon the prisoner's active

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1 participation in approved programs and the quality of the prisoner's participation in S  
2 those approved programs. A prisoner may not earn meritorious deductions unless B  
3 the recommendation of the classification committee is approved by the warden. 2  
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4 C. If a prisoner's active participation in approved programs is 4  
5 interrupted by a lockdown at a correctional facility, he may continue to be awarded P  
6 meritorious deductions at the rate he was earning meritorious deductions prior to a  
7 the lockdown, unless the warden determines that the prisoner's conduct contributed g  
8 to the initiation or continuance of the lockdown. e 2

9 D. A prisoner confined in a correctional facility designated by the  
10 corrections department is eligible for lump-sum meritorious deductions as follows:

11 (1) for successfully completing an approved vocational,  
12 substance abuse or mental health program, one month; except when the prisoner  
13 has a demonstrable physical, mental health or developmental disability that  
14 prevents the prisoner from successfully earning a general education diploma, in  
15 which case, the prisoner shall be awarded three months;

16 (2) for earning a general education diploma, three months;

17 (3) for earning an associate's degree, four months;

18 (4) for earning a bachelor's degree, five months;

19 (5) for earning a graduate qualification, five months; and

20 (6) for engaging in a heroic act of saving life or property,

21 engaging in extraordinary conduct for the benefit of the state or the public that is at

22 great expense, risk or effort on behalf of the inmate, or engaging in extraordinary

23 conduct far in excess of normal program assignments that demonstrates the

24 prisoner's commitment to rehabilitate himself. The classification committee and the

25 warden may recommend the number of days to be awarded in each case based

upon the particular merits, but any award shall be determined by the director of the  
adult institutions division of the corrections department.

1 E. Lump-sum meritorious deductions, provided in Paragraphs (1) S  
2 through (6) of Subsection D of this section, may be awarded in addition to the B  
3 meritorious deductions provided in Subsections A and B of this section. Lump-sum 2  
4 meritorious deductions shall not exceed one year per award and shall not exceed a 5  
5 total of one year for all lump-sum meritorious deductions awarded in any 4  
6 consecutive P  
7 twelve-month period. a  
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8 F. A prisoner is not eligible to earn meritorious deductions if the  
9 prisoner:

10 (1) disobeys an order to perform labor, pursuant to Section  
11 33-8-4 NMSA 1978;

12 (2) is in disciplinary segregation;

13 (3) is within the first sixty days of receipt by the corrections  
14 department; or

15 (4) is not an active participant in programs recommended  
16 and approved for him by the classification committee.

17 G. The provisions of this section shall not be interpreted as  
18 providing eligibility to earn meritorious deductions from a sentence of life  
19 imprisonment or a sentence of death.

20 H. The corrections department shall promulgate rules to implement  
21 the provisions of this section, and the rules shall be matters of public record. A  
22 concise summary of the rules shall be provided to each prisoner, and each prisoner  
23 shall receive a quarterly statement of the meritorious deductions earned.

24 I. A New Mexico prisoner confined in a federal or out-of-state  
25 correctional facility is eligible to earn meritorious deductions for active participation  
in programs on the basis of the prisoner's conduct and program reports furnished by  
that facility to the corrections department. All decisions regarding the award and

1 forfeiture of meritorious deductions at such facility are subject to final approval by  
2 the director of the adult institutions division of the corrections department or the  
3 director's designee.

4 J. In order to be eligible for meritorious deductions, a prisoner  
5 confined in a federal or out-of-state correctional facility designated by the  
6 corrections department must actively participate in programs that are available. If a  
7 federal or out-of-state correctional facility does not have programs available for a  
8 prisoner, the prisoner may be awarded meritorious deductions at the rate the  
9 prisoner could have earned meritorious deductions if the prisoner had actively  
10 participated in programs.

11 K. A prisoner confined in a correctional facility in New Mexico that is  
12 operated by a private company, pursuant to a contract with the corrections  
13 department, is eligible to earn meritorious deductions in the same manner as a  
14 prisoner confined in state-run correctional facilities. All decisions regarding the  
15 award or forfeiture of meritorious deductions at such facilities are subject to final  
16 approval by the director of the adult institutions division of the corrections  
17 department or the director's designee.

18 L. As used in this section:

19 (1) "active participant" means a prisoner who has begun, and  
20 is regularly engaged in, approved programs;

21 (2) "program" means work, vocational, educational,  
22 substance abuse and mental health programs, approved by the classification  
23 committee, that contribute to a prisoner's self-betterment through the development  
24 of personal and occupational skills. "Program" does not include recreational  
25 activities;

(3) "nonviolent offense" means any offense other than a  
serious violent offense; and

1 (4) "serious violent offense" means: S  
2 (a) second degree murder, as provided in Section 30- B  
3 2-1 NMSA 1978; 2  
4 (b) voluntary manslaughter, as provided in Section 5  
5 30-2-3 NMSA 1978; 4  
6 (c) third degree aggravated battery, as provided in P  
7 Section 30-3-5 NMSA 1978; a  
8 (d) first degree kidnapping, as provided in Section 30- g  
9 4-1 NMSA 1978; e  
10 (e) first and second degree criminal sexual 5  
11 penetration, as provided in Section 30-9-11 NMSA 1978;  
12 (f) second and third degree criminal sexual contact of  
13 a minor, as provided in Section 30-9-13 NMSA 1978;  
14 (g) first and second degree robbery, as provided in  
15 Section 30-16-2 NMSA 1978;  
16 (h) second degree aggravated arson, as provided in  
17 Section 30-17-6 NMSA 1978;  
18 (i) shooting at a dwelling or occupied building, as  
19 provided in Section 30-3-8 NMSA 1978;  
20 (j) shooting at or from a motor vehicle, as provided in  
21 Section 30-3-8 NMSA 1978;  
22 (k) aggravated battery upon a peace officer, as  
23 provided in Section 30-22-25 NMSA 1978;  
24 (l) assault with intent to commit a violent felony upon  
25 a peace officer, as provided in Section 30-22-23 NMSA 1978;  
(m) aggravated assault upon a peace officer, as  
provided in Section 30-22-22 NMSA 1978; and

1 (n) any of the following offenses, when the nature of  
2 the offense and the resulting harm are such that the court judges the crime to be a  
3 serious violent offense for the purpose of this section: 1) involuntary manslaughter,  
4 as provided in Section 30-2-3 NMSA 1978;  
5 2) fourth degree aggravated assault, as provided in  
6 Section 30-3-2 NMSA 1978; 3) third degree assault with intent to commit a violent  
7 felony, as provided in Section 30-3-3 NMSA 1978; 4) third and fourth degree  
8 aggravated stalking, as provided in Section 30-3A-3.1 NMSA 1978; 5) second  
9 degree kidnapping, as provided in Section 30-4-1 NMSA 1978;  
10 6) second degree abandonment of a child, as provided in Section 30-6-1 NMSA  
11 1978; 7) first, second and third degree abuse of a child, as provided in Section 30-  
12 6-1 NMSA 1978;  
13 8) third degree dangerous use of explosives, as provided in Section 30-7-5 NMSA  
14 1978; 9) third and fourth degree criminal sexual penetration, as provided in Section  
15 30-9-11 NMSA 1978;  
16 10) fourth degree criminal sexual contact of a minor, as provided in Section 30-9-13  
17 NMSA 1978; 11) third degree robbery, as provided in Section 30-16-2 NMSA 1978;  
18 12) third degree homicide by vehicle or great bodily injury by vehicle, as provided in  
19 Section 66-8-101 NMSA 1978; and 13) battery upon a peace officer, as provided in  
20 Section 30-22-24 NMSA 1978.

21 M. Except for sex offenders, as provided in Section 31-21-10.1  
22 NMSA 1978, an offender sentenced to confinement in a correctional facility  
23 designated by the corrections department who has been released from confinement  
24 and who is serving a parole term may be awarded earned meritorious deductions of  
25 up to thirty days per month upon recommendation of the parole officer supervising  
the offender, with the final approval of the adult parole board. The offender must be  
in compliance with all the conditions of the offender's parole to be eligible for earned

1 meritorious deductions. The adult parole board may remove earned meritorious  
2 deductions previously awarded if the offender later fails to comply with the  
3 conditions of the offender's parole. The corrections department and the adult  
4 parole board shall promulgate rules to implement the provisions of this subsection."

5 Section 2. EFFECTIVE DATE.--The effective date of the provisions of this  
6 act is July 1, 2004.

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