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FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/11

SPONSOR Kintigh LAST UPDATED HB 370

SHORT TITLE Felony Meritorious Deductions Rates SB

ANALYST Hoffmann

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$50.0	\$50.0	\$100.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

House Bill 370 would amend the Earned Meritorious Deductions (“Good Time”) Law to clarify those offenders serving life sentences without the possibility of parole or release cannot earn good time. It further amends this law to add the crimes of attempt, conspiracy and solicitation to commit a serious violent felony to the list of serious violent offenses. In other words, if an individual attempts to commit, conspires to commit or solicits to commit a serious violent offense, those crimes would now constitute “per se” or automatic serious violent offenses. This means that offenders convicted of these additional offenses would only be eligible to earn up to four days of good time per month, as opposed to up to 30 days per month for crimes which are not listed or defined as serious violent offenses.

FISCAL IMPLICATIONS

In just the past one year, NMCD has received and incarcerated 48 offenders for attempt/conspiracy/solicitation of crimes defined as serious violent offenses. NMCD anticipates that it will receive approximately this number of offenders each and every year. NMCD estimates that the bill will increase its incarceration costs by at least \$100,000 over the relevant three year period. This is just an estimate. It could be high or low. NMCD cannot control who is convicted and sentenced to its custody. More significantly, these increased incarceration costs are going to be much higher in subsequent years. With approximately 48 new inmates arriving

as serious violent offenders each year to serve 85% of their sentences, it will not be very long until NMCD's inmate population reaches its rated or maximum capacity.

The classification of an inmate determines his or her custody level, and the incarceration cost varies based on the custody level and particular facility. The cost to incarcerate a male inmate ranges from an average of \$49,347 per year in a state owned/ operated prison to \$31,239 per year in a contract/private prison (where primarily only level III or medium custody inmates are housed). The cost to house a female inmate at a privately owned/operated facility is \$33,258 per year. Because the capacities of medium and higher custody state owned prisons are essentially at capacity, any net increase in inmate population will likely have to be housed at a contract/private facility.

SIGNIFICANT ISSUES

The NMCD is concerned that if numerous new crime or serious violent offense bills such as this one are passed, NMCD will quickly reach its rated capacity for its prison population. At that point, NMCD and/or the State will have three options: house inmates out of state, consider early release of inmates in accordance with the Corrections Population Control Act or other applicable state laws, or build more prisons or add space to existing prisons. All of these options have negative consequences. The early release of inmates jeopardizes public safety, and housing inmates out of state or building new prisons is expensive.

PERFORMANCE IMPLICATIONS

According to the NMCD this bill would negatively impact the Department's ability to perform prison-related and probation/parole supervision services (with current levels of staffing) by substantially increasing the NMCD prison population.

ADMINISTRATIVE IMPLICATIONS

The NMCD reports that since the bill is likely to result in substantial increases in the NMCD prison population, it will increase the workloads of current prison staff.

JCH/bym