

LFC Requester:	Scott Sanchez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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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 23, 2025 *Check all that apply:*
Bill Number: SB 17 Original Correction
 Amendment Substitute

Sponsor: Leo Jaramillo **Agency Name and Code** AODA - #264
Short Title: Parole and Parole Board Changes **Number:** _____
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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)

Duplicates/Conflicts with/Companion to/Relates to:

n/a

Duplicates/Relates to Appropriation in the General Appropriation Act

n/a

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Section 1 amends Section 31-21-10 – “Parole Authority and Procedure”

Subsection A provides that an inmate who was sentenced to life imprisonment becomes eligible for a parole hearing after the inmate has served 30 years of the sentence. The amendment adds the language “which shall be construed as the retributive portion of the life sentence.”

Further language is added to provide that the parole board “shall focus” on “risk and readiness for release as demonstrated by the inmate complying with the rules of the institution”, whether the inmate has participated in or completed educational or vocational programs, and whether the inmate “has demonstrated maturity, rehabilitation and a fitness to reenter society.”

To the requirements the parole board is to undertake before granting parole, the bill adds that it must “hear from the family or representative of the victim” if they choose to participate.

The language that the board is to consider if the inmate is a “habitual offender” is deleted and replaced with “the inmate’s relevant criminal history.”

Section 2 amends Section 31-21-22 of the Parole Board Act – “Short Title” – to simply change the citation from “Sections 1 through 5 of this act” to “Sections 31-21-22 through 31-22-26 NMSA 1978.”

Section 3 amends Section 31-21-24 – “Parole Board – Members – Appointment – Terms – Qualifications – Compensation – Organization”

Subsection C is amended to delete the provision that members of the parole board may be removed “by the governor as provided in Article 5, Section 5 of the constitution of New Mexico” and provides that the members can “only [be removed] for incompetence, neglect or duty or malfeasance in office.” A proceeding for removal may be commenced by the board or the governor, the member shall be given notice and an opportunity to be heard, and the supreme court has original jurisdiction over removal proceedings and its decision is final. The section further provides that “[a] member of the parole board is also liable for impeachment pursuant to Article 4, Section 36 of the constitution of New Mexico.”

Subsection E which allows for per diem and mileage payments to board members, is amended to provide that money “for a scheduled board meeting or hearing.”

Section 4 is new material – Section 31-21-25.2 entitled “Conscientious Scheduling of Hearings in Cases of Homicide” to provide that the parole board shall not schedule hearings on the birthday or death anniversary of a homicide victim, when practicable.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

None noted.

SIGNIFICANT ISSUES

The bill changes the removal process for board members. Under Article V, Section 5 of the New Mexico constitution, “the governor shall nominate and, by and with the consent of the senate, appoint all officers whose appointment or election is not otherwise provided for and *may remove any officer appointed by him unless otherwise provided by law.*” (emphasis added). The new language deletes this and provides that a member can “only” be removed for incompetence, neglect or malfeasance.

The amendment also provides that the members can be impeached pursuant to Article 4, Section 26 of the state constitution which provides in pertinent part that “[a]ll state officers and judges of the district court shall be liable to impeachment for crimes, misdemeanors and malfeasance in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust or profit, or to vote under the laws of this state[.]” The parole board members are likely already subject to this provision even without the explicit mention of it.

Presumably, the intent is to entirely usurp the governor’s power to remove the board members under Art. V, § 5. This intent is supported by the word “only.” *Compare State ex rel. New Mexico Judicial Standards Comm’n v. Espinosa*, 2003-NMSC-017, ¶¶ 23-25, 134 N.M. 59 (governor’s removal authority under Art. V, § 5 applied to the executive appointees on the Judicial Standards Commission, absent any express limit in the constitutional or statutory provisions governing the commission) *with Denish v. Johnson*, 1996-NMSC-005, ¶ 53, 121 N.M. 280 (N.M. Const. art. XII, § 13 specifically provided that members of the board of regents shall not be removed except for incompetence, neglect or malfeasance in office – “[t]he New Mexico Constitution does give the Governor the power to ‘remove any officer appointed by him unless otherwise provided by law’ . . . [h]owever, the law does provide ‘otherwise’ for members of the Board of Regents of New Mexico Tech” and the governor’s removal of the members was unconstitutional).

The bill also includes two provisions for victims; one, to provide that a victim’s family shall have the right to be heard before parole is granted, and two, that the parole board shall not schedule a hearing on a death anniversary or birthday of a homicide victim when considering parole for the defendant who committed the homicide. *See* N.M. Const. Art. II, § 24 and NMSA 1978, § 31-26-4 (constitutional and statutory victim’s rights provisions).

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

n/a