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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/19/13

SPONSOR Maestas LAST UPDATED \_\_\_\_\_ HB 450/aHJC

SHORT TITLE County Jail Time for Good Behavior SB \_\_\_\_\_

ANALYST Chenier

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

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal	Minimal	Minimal	Recurring	Recurring

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 123, Additional Violent Felonies for Good Time

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Sentencing Commission (NMSC)  
 Public Defender Department (PDD)  
 Attorney General's Office (AGO)  
 Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 450 would add inmates convicted of a domestic violence offense pursuant to the Crimes Against Household Members Act, along with those convicted of DWI, to the list of inmates who cannot receive "day-for-day" good time credits. The second part of the amendment states that good time awards shall not exceed 15 percent of the term of the inmate's original sentence for those convicted of domestic violence offenses or DWI, but that with judicial approval a deduction of up to 50 percent of the original sentence is allowed.

#### Synopsis of Original Bill

House Bill 450 (HB 450) amends Section 33-3-9 NMSA 1978 to remove the requirement of judicial approval before a sheriff or jail administrator in a county with a population greater than

500,000 may grant deductions of time from an inmate's sentence for good behavior in accordance with newly proposed Section 33-3-9.1. An additional amendment to Section 33-3-9 NMSA 1978 and included in 33-3-9.1 permits an independent contractor operating a jail to make reports of disciplinary violations and good behavior to the jail administrator or the sheriff of the county where the jail is located. The jail administrator or sheriff must then take action on such reports and decide on awards or forfeitures of good time. Section 33-3-9.1 gives sole discretion to the sheriff or jail administrator to release an inmate committed to the county detention center, except those serving mandatory sentences for DWI.

## **FISCAL IMPLICATIONS**

The Administrative Office of the Courts (AOC) stated that in a court of limited jurisdiction, like the Metropolitan Court where offenders often are only sentenced to 90 days or less, removing the ability of a judge in his or her discretion to order straight time may result in less successful rehabilitation efforts and an increase in offender recidivism, and will negatively impact the Court's specialty court programs. The resulting increase in offender recidivism may result in an indeterminate fiscal impact with the increase in criminal dockets and the costs associated therewith.

## **SIGNIFICANT ISSUES**

The Administrative Office of the District Attorneys (AODA) stated that currently no sheriff or jail administrator may award any deductions from an inmate's sentence being served in county jail unless the committing judge or presiding judge approves the award of good time. By comparison, the award of good time for inmates in state correctional facilities does not require judicial approval. Additionally, the MDC inmate population is in excess of its design capacity and is under supervision of federal court so there is an impetus for the administrator to reduce its population.

The AOC stated that adoption of HB 450 would mean that, at the time of sentencing, the judge will have no input on the offender's ability to be released from the detention center early, without serving the full sentence imposed. Additionally, the legislature has placed great emphasis in the past on the creation and funding of Specialty Courts in New Mexico, including drug, mental health, domestic violence, and homeless courts. The efficacy of these courts in catering to the special needs of offenders who qualify for inclusion in their programs, as well as in addressing their recidivism rates, has been well documented. Part of the incentive for defendants to participate in Specialty Courts is their fear of the alternative – a sentence of incarceration.

## **ALTERNATIVES**

There might be an equal protection claim by inmates in other counties that the sheriff or jail administrator in their county should have the same authority as the jail administrator in Bernalillo County if there is any disparity in the criteria for good time and/or number or frequency of awards between the respective counties. Equal Protection concerns could be addressed by allowing all sheriffs the powers attributed to those of Class A counties under the present version of the bill.