



Colorado  
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Council  
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MEMORANDUM

April 25, 2011

**TO:** Senator Morgan Carroll  
**FROM:** Jessika Shipley, (303-866-3528)  
**SUBJECT:** Fiscal Assessment of Proposed Amendment **SB176\_L.006**.

This memorandum is an assessment of the fiscal impact of the attached proposed amendment to **SB11-176**. This fiscal assessment is for the impact of the bill with inclusion of this amendment only. Any other added amendment could influence the fiscal impact.

**Summary of Proposed Amendment**

The strike below amendment permits the accrual of earned time for inmates who have been housed in administrative segregation (AS) for at least 90 days, provided they meet the statutory criteria for doing so. It allows the Department of Corrections (DOC) to develop a modified criteria for the accrual of earned time by AS inmates.

The warden of each facility is given the authority take measures to restrict the confinement of any inmate who actively participates in security threat group behavior. A "security threat group" is any group of three or more individuals acting in concert or individually in an activity that is characterized by criminal conduct or conduct that violates the DOC's code of penal discipline for the purpose of disrupting prison operations, recruiting new members, damaging property, or inflicting or threatening harm to others.

Finally, the amendment requires the DOC to provide a written report to the House and Senate Judiciary Committees concerning the status of AS; reclassification efforts for offenders with mental illness or developmental disabilities, including duration of stay, reason for placement, and number and percentage of inmates discharged; and any internal reform efforts since July 1, 2011. Any cost savings from implementation of the bill is redirected to the DOC to support behavior modification programs, incentive programs, mental health services or programs, or similar efforts designed as viable alternatives to AS.

## Bill's Revised Fiscal Impact with Amendment

The net impact to the DOC is (\$76,183) in FY 2011-12 and (\$526,237) in FY 2012-13. In addition, the Governor's Office of Information Technology (OIT) will require 2.0 FTE in FY 2011-12 and each year thereafter. The savings and costs are explained below.

**Savings.** The amendment allows inmates in AS to accrue earned time provided they meet certain statutory criteria. Departmental data show that 75 percent of a random sample of close custody (the next highest custody level that can currently accrue earned time) inmates were eligible to accrue earned time in CY 2010. The DOC is expected to implement a new policy for the accrual of a maximum of six days of earned time per month for offenders who have been housed in AS for at least 90 days. As a result of the new earned time policy, AS offenders can expect to release an average of 52 days early over the average length of stay in AS of 19 months.

Table 1 details the five-year cost savings attributable to earned time. The number of offenders releasing early was determined by identifying how many releases to mandatory parole in CY 2010 were in AS within 1 year, 2 years, etc., of their release. Because the bill takes effect in July, only a portion of the average accrual can be earned in the first year. The total accrual levels out at 52 additional days per inmate by the third year. The cost savings are calculated at the rate of \$88.59 per day.

Fiscal Year	Number of AS Inmates Eligible for Earned Time	Average Number of Days Earned Per Person	Total Number of Days Released Early	Total Savings
FY 2011-12	132	17	2,244	\$198,796
FY 2012-13	149	50	7,450	\$659,996
FY 2013-14	164	52	8,528	\$755,496
FY 2014-15	177	52	9,204	\$815,382
FY 2015-16	182	52	9,464	\$838,416
<b>Total</b>			36,890	\$3,268,085

**Costs.** Changes to earned time accrual eligibility and new reporting requirements require computer system programming modifications and ongoing maintenance, which will take approximately 4,160 hours each year. This equates to 2.0 FTE at the IT Professional III level. The costs associated with the FTE (\$122,613 in FY 2011-12 and \$133,759 in FY 2012-13) will be appropriated to the DOC, which will contract with the OIT for services. The 2.0 FTE will be appropriated directly to the OIT.

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB11-176 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. Part 1 of article 1 of title 17, Colorado Revised  
4 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
5 read:

6 **17-1-113.9. Use of administrative segregation for state inmates**  
7 **- reporting.** (1) ON OR BEFORE JANUARY 1, 2012, AND EACH JANUARY  
8 1 THEREAFTER, THE EXECUTIVE DIRECTOR SHALL PROVIDE A WRITTEN  
9 REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND HOUSE OF  
10 REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, CONCERNING THE  
11 STATUS OF ADMINISTRATIVE SEGREGATION; RECLASSIFICATION EFFORTS  
12 FOR OFFENDERS WITH MENTAL ILLNESSES OR DEVELOPMENTAL  
13 DISABILITIES, INCLUDING DURATION OF STAY, REASON FOR PLACEMENT,  
14 AND NUMBER AND PERCENTAGE DISCHARGED; AND ANY INTERNAL REFORM  
15 EFFORTS SINCE JULY 1, 2011.

16 (2) ANY COST SAVINGS ACHIEVED AS A RESULT OF THE  
17 IMPLEMENTATION OF SECTION 17-1-109 (2) SHALL BE APPROPRIATED AND  
18 REDIRECTED TO THE DEPARTMENT TO SUPPORT BEHAVIOR-MODIFICATION  
19 PROGRAMS, INCENTIVE PROGRAMS, MENTAL HEALTH SERVICES OR  
20 PROGRAMS, OR SIMILAR EFFORTS DESIGNED AS VIABLE ALTERNATIVES TO  
21 ADMINISTRATIVE SEGREGATION.

22 **SECTION 2.** 17-1-109 (2), Colorado Revised Statutes, is  
23 amended to read:

24 **17-1-109. Duties and functions of the warden.** (2) (a) The  
25 warden of each correctional facility should, wherever possible, take such  
26 measures as are reasonably necessary to restrict the confinement of any  
27 person ~~with known past or current affiliations or associations with any~~  
28 ~~security-threat group~~ WHO ACTIVELY PARTICIPATES IN DISRUPTIVE  
29 SECURITY-THREAT GROUP BEHAVIOR, as defined in paragraph (b) of this  
30 subsection (2), so as to prevent contact with other inmates at such facility.  
31 The warden should, wherever possible, also take such measures as are  
32 reasonably necessary to prevent recruitment of new security-threat group  
33 members from among the general inmate population. ASSOCIATION WITH  
34 AN INMATE GANG OR SECURITY-THREAT GROUP ALONE SHALL NOT BE  
35 SUFFICIENT TO MEET THE REQUIREMENTS OF THIS PARAGRAPH (a).

36 (b) For the purposes of this subsection (2), unless the context  
37 otherwise requires, "security-threat group" means a group of three or

1 more individuals with a common interest, bond, or activity characterized  
2 by criminal or delinquent conduct engaged in either collectively or  
3 individually ACTING IN CONCERT OR INDIVIDUALLY IN AN ACTIVITY THAT  
4 IS CHARACTERIZED BY CRIMINAL CONDUCT OR CONDUCT THAT VIOLATES  
5 THE DEPARTMENT'S CODE OF PENAL DISCIPLINE FOR THE PURPOSE OF  
6 DISRUPTING PRISON OPERATIONS, RECRUITING NEW MEMBERS, DAMAGING  
7 PROPERTY, OR INFLECTING OR THREATENING TO INFLECT HARM TO  
8 EMPLOYEES, CONTRACT WORKERS, VOLUNTEERS, OR OTHER STATE  
9 INMATES.

10 **SECTION 3.** 17-22.5-302, Colorado Revised Statutes, is  
11 amended BY THE ADDITION OF A NEW SUBSECTION to read:

12 **17-22.5-302. Earned time.** (1.3) NOTWITHSTANDING THE  
13 PROVISIONS OF SUBSECTION (1) OF THIS SECTION TO THE CONTRARY, AFTER  
14 HIS OR HER FIRST NINETY DAYS IN ADMINISTRATIVE SEGREGATION, A  
15 STATE INMATE IN ADMINISTRATIVE SEGREGATION SHALL BE ELIGIBLE TO  
16 RECEIVE EARNED TIME IF HE OR SHE MEETS THE CRITERIA REQUIRED BY  
17 THIS SECTION OR ANY MODIFIED CRITERIA DEVELOPED BY THE  
18 DEPARTMENT TO ALLOW A STATE INMATE TO RECEIVE THE MAXIMUM  
19 AMOUNT OF EARNED TIME ALLOWABLE FOR GOOD BEHAVIOR AND  
20 PARTICIPATION IN ANY PROGRAMS AVAILABLE TO THE STATE INMATE IN  
21 ADMINISTRATIVE SEGREGATION.

22 **SECTION 4.** 17-22.5-405, Colorado Revised Statutes, is  
23 amended BY THE ADDITION OF A NEW SUBSECTION to read:

24 **17-22.5-405. Earned time - earned release time.**  
25 (8) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
26 CONTRARY, AFTER HIS OR HER FIRST NINETY DAYS IN ADMINISTRATIVE  
27 SEGREGATION, A STATE INMATE IN ADMINISTRATIVE SEGREGATION SHALL  
28 BE ELIGIBLE TO RECEIVE EARNED TIME IF HE OR SHE MEETS THE CRITERIA  
29 REQUIRED BY THIS SECTION OR ANY MODIFIED CRITERIA DEVELOPED BY  
30 THE DEPARTMENT TO ALLOW A STATE INMATE TO RECEIVE THE MAXIMUM  
31 AMOUNT OF EARNED TIME ALLOWABLE FOR GOOD BEHAVIOR AND  
32 PARTICIPATION IN ANY PROGRAMS AVAILABLE TO THE STATE INMATE IN  
33 ADMINISTRATIVE SEGREGATION.

34 **SECTION 5. Effective date - applicability.** This act shall take  
35 effect July 1, 2011, and shall apply to an offender placed in administrative  
36 segregation on or after July 1, 2011, or an offender who is housed in  
37 administrative segregation at the time this act takes effect.

38 **SECTION 6. Safety clause.** The general assembly hereby finds,  
39 determines, and declares that this act is necessary for the immediate  
40 preservation of the public peace, health, and safety."

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