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FISCAL IMPACT REPORT

SPONSOR: Garcia DATE TYPED: 2/02/03 HB 176

SHORT TITLE: Additional Controlled Substances SB _____

ANALYST: Fox-Young

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$0.1 Significant	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

- Attorney General (AG)
- Administrative Office of the District Attorneys (AODA)
- Administrative Office of the Courts (AOC)

No Response

- Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

House Bill 176 amends the criminal offense of trafficking controlled substances, Section 30-31-20, to include a methamphetamine, its salts, isomers and salts of isomers.

Under current law, trafficking includes the manufacture of any Schedule I through V drug or a controlled substance analog and only distribution or possession with intent to distribute Schedule I or II narcotic drugs or analogs. This bill adds methamphetamine, its salts, isomers and salts of isomers to these serious narcotic drugs.

Penalties and basic sentences (current and proposed) for distribution or possession with intent to distribute are as follows:

<u>Offense</u>	<u>Current Penalty, Basic Sentence</u>	<u>Proposed Penalty, Basic Sentence</u>
1st	3rd degree felony, 3 years	2nd degree felony, 9 years
2nd & subsequent	2nd degree felony, 9 years	1st degree felony, 18 years

FISCAL IMPLICATIONS

The total number of methamphetamine cases flowing through the judicial process is not likely to increase significantly; however, the increased penalties provided for distribution or possession with intent are likely to spawn significantly more trials. As a result of the increase in the mandatory sentence, defendants accused of distribution will have a greater incentive to go to trial rather than accept a plea. Because trials necessitate more resources than a plea does, courts, district attorneys and public defenders will likely see a significant increase in costs. Additional FTE may be necessary in order to cover methamphetamine distribution cases without sacrificing in other areas.

This bill will likely prompt a substantial increase in the length of sentences to the department's custody or supervision. The Corrections Department (CD) estimates an annual increase of five to 20 prison sentences, five to 10 additional probation sentences, 10 to 30 longer prison sentences and 10 to 30 longer probation sentences.

TECHNICAL ISSUES

The Attorney General (AG) notes that the word "of," page two, line 12, should be deleted.

OTHER SUBSTANTIVE ISSUES

The AG asserts that policy concerns related to methamphetamine include the dangerous, explosive nature of methamphetamine labs, the prevalence of methamphetamine use in New Mexico, and the high cost of methamphetamine site cleanup. The Administrative Office of the District Attorneys (AODA) notes that methamphetamine distribution currently results in a lower penalty than does cocaine or heroin distribution.

JCF/yr