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## FISCAL IMPACT REPORT

SPONSOR: Regensberg DATE TYPED: 2/11/03 HB 342  
 SHORT TITLE: Additional Means of Punishment of Death SB \_\_\_\_\_  
 ANALYST: Maloy

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative	Recurring	General Fund

### SOURCES OF INFORMATION

Responses Received From  
 Administrative Offices of the District Attorneys  
 Corrections Department  
 Department of Public Safety  
 Adult Parole Board  
 Administrative Offices of the Courts

### SUMMARY

#### Synopsis of Bill

House Bill 342 allows defendants sentenced to death to choose from five methods of execution. The options include:

1. intravenous injection
2. hanging
3. firing squad
4. lethal gas
5. electrocution

The defendant may, within sixty days after being delivered to the warden of the state penitentiary at Santa Fe, select the manner by which his punishment of death shall be inflicted.

A defendant who declines a choice, or fails to make a choice, will be executed according to lethal injection.

Significant Issues

- There is a humane element to this bill in that it allows a defendant the dignity to choose how he or she will die at the hands of the state. It allows a person to avoid a method of death that is particularly feared.
- Some would argue that it is unfair to grant such an opportunity to defendants sentenced to death. Those who are sentenced to death have committed the most inhumane and cruel acts against the innocent, weak or young. Some will suggest that the defendant does not deserve the opportunity to choose---- his or her victims had no such choice.
- This legislation must be scrutinized for constitutional implications, both federal and state. Have any of the options been ruled “cruel and unusual” by the Courts in New Mexico, or by the United States Supreme Court? Would a defendant’s right to choose from a number of commonly accepted execution practices eliminate any constitutional implications?
- Undoubtedly, the legality/constitutionality of this bill would be challenged, thereby affecting the Courts, the District Attorney’s Office, the Public Defender’s Office, and other related agencies.
- The language relating to the 60-day time frame for making the choice should be tightened-up to ensure there is no confusion whatsoever about the deadline for making the choice.

**FISCAL IMPLICATIONS**

HB 342 contains no appropriation. The bill will increase costs to the Corrections Department in later years because the Department will be required to perform executions in different manners. For instance, the Department would have to purchase a “gas chamber” and an electric chair.

As noted above, HB 342 will also increase costs to the Courts, District Attorney’s Office, Public Defender’s Office, and other related agencies.

**SJM/prr**