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## FISCAL IMPACT REPORT

SPONSOR: McSorley DATE TYPED: 3/03/03 HB \_\_\_\_\_  
 SHORT TITLE: Abolish Death Penalty SB 651  
 ANALYST: Maloy

### APPROPRIATION

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

Duplicates HB 377.

Relates to / Conflicts with: HB 42, HB 53, HB 272, HB 293, HB 294, HB 342, and SB 51, SB 75, SB 104, SB 132, SB 272.

### SOURCES OF INFORMATION

Responses Received From  
 Department of Corrections  
 Department of Public Safety  
 Office of the Attorney General  
 Public Defenders Office  
 Administrative Offices of the Courts  
 Administrative Offices of the District Attorney  
 Adult Parole Board

### SUMMARY

#### Synopsis of Bill

Senate Bill 651 proposes to abolish the death penalty. In lieu of the death penalty, the bill provides for life imprisonment, without the opportunity for parole, when a jury finds beyond a reasonable doubt that one of the aggravating factors exists (factors that formerly gave rise a death sentence, such as: murder of a peace officer; murder involving kidnapping, sexual contact with a minor or criminal sexual penetration; murder while escaping a penal institute, and the like.)

Significant Issues

1. The bill provides that the defense would no longer be permitted to present mitigating evidence to the jury.
2. Execution of a defendant is costly, both from the perspective of years of appeals within the judicial system and from the state act of carrying out an execution.
3. Supporting a defendant in the corrections system for life is also costly to the state.
4. No action can be taken on such a bill without serious consideration being given to the social, moral and ethical issues that surround the state's taking of a human life.

**FISCAL IMPLICATIONS**

There are no appropriations contained within SB 651.

Both life-imprisonment and death-sentence cases involve considerable judicial resources. Both types of cases require significant time, FTE and budget resources from the courts, public defenders and district attorneys. This being said, life-imprisonment cases *may* result in slightly fewer appeals. Therefore, there may be some slight savings to these departments.

However, it is costly to support a defendant for life in the state's penal institutes.

Comprehensively, taking into consideration the likely more frequent and costly judicial appeals together with the actual execution costs (vs.) supporting a defendant for life in state institutes, the final cost figures / offsets are not known. No agency submitting an analysis of this bill speculated as to what the final fiscal implications may be.

**POSSIBLE QUESTIONS**

1. Consideration should be given to the findings uncovered and acted upon in Illinois and Maryland, states where a number of men were executed and subsequently determined to have been innocent of the crimes charged against them. Has this ever happened in New Mexico? Could it?
2. What is to become of the sentence of any inmates currently on death row in New Mexico? Will such a sentence be commuted to life-in-prison without parole? If HB 377 is enacted into law, is the change in the law something that may be applied retroactively to individuals sentenced to death previously? If not, would the Governor act to unilaterally commute existing sentences, as has happened recently in Illinois as a result of the numerous problems they have discovered?

SJM/yr/njw