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FISCAL IMPACT REPORT

SPONSOR Sandoval DATE TYPED 3/10/05 HB 250/aSPAC

SHORT TITLE Unauthorized Recording Act Violations SB _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 Corrections Department (CD)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment clarifies that an offense in this bill involves seven or more unauthorized recordings at one time.

Synopsis of Original Bill

House Bill 250 amends the Unauthorized Recording Act (§30-16B-3 NMSA 1978) to lower the number of recordings that trigger the Act and removes the 180-day window of activity.

The bill makes three distinct activities related to the sale or intent to sell commercial recordings unlawful. These are: selling a recording without the consent of the owner, selling a recording that does not have the true name of the manufacturer on it, and recording a live performance without the consent of the owner.

Currently, 100 unauthorized recordings within 180 days trigger the Act and its criminal penalties. This bill lowers that standard to seven unauthorized recordings and the 180-day window of activity is deleted. The activity could occur over any length of time.

The bill makes seven or more unauthorized acts (i.e. selling seven CDs that were recorded without the permission of the owner of the master recording) a fourth degree felony. Currently, there must be at least 100 unauthorized acts within 180 days for the crime to be a fourth degree felony. The bill makes less than seven unauthorized acts a misdemeanor and removes the 180-day time frame for committing the illegal activity.

Significant Issues

This bill makes almost all violations of this act a fourth degree felony. Under this bill, seven recordings over any time period will be a felony. Felony cases are heard in district court and the potential penalty is much greater. Felony cases are more complex and take more time to resolve. This bill may increase the criminal caseload of district courts.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes

ADMINISTRATIVE IMPLICATIONS

In both the short and long term, this bill will somewhat increase the burden on the prison administrative staff and probation/parole staff because of the increasing prison population and probation/parole caseloads. CD will be able to absorb the additional burden due to the fact that the increase in number of persons convicted under the provisions of this bill will be minimal.

DW/sb:yr