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FISCAL IMPACT REPORT

ORIGINAL DATE 2/1/07

SPONSOR Rehm LAST UPDATED _____ HB 480

SHORT TITLE Statute of Limitations for Certain Crimes SB _____

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Corrections Department (CD)

SUMMARY

Synopsis of Bill

This bill restricts the period for prosecuting the crimes of conspiracy and tampering with evidence to the same time period as the crime for which the crime conspired to be committed would be prosecuted or the time for which the tampering with evidence was committed would be prosecuted, respectively. The bill also clarifies that there shall be no limitations period for capital or first degree felonies, not just “violent” capital or first degree felonies.

The effective date of the Act is July 1, 2007.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the State of New Mexico would be proportional to the enforcement of this law and the commencement of additional prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

According to the Corrections Department HB480 could result in a decrease in operating expenses or on the other hand an increase in operating expenses. The impact to operating expenses is dependent upon which of two counter assumptions one believes will occur as a result of this bill passing. Restricting the period for prosecuting the crimes of conspiracy and tampering with evidence could have two very distinct and converse outcomes. The bill could result in fewer convictions because prosecutors may fail to prosecute within the limitations period of the underlying crime. Conversely, it could result in additional convictions if prosecutors become more cognizant of the limitations period and more aggressively pursue prosecution for the crimes within the permissible period. If the first assumption holds true the Corrections Department's operating expenses may decrease because less convictions would result in few offenders being within the custody or under the supervision of the Department. If the second assumption holds true the Corrections Department's operating expenses may increase because more convictions would result in additional offenders being within the custody or under the supervision of the Department.

SIGNIFICANT ISSUES

The present statute sets out the time limitations for prosecution of crimes based on the penalty imposed, e.g., the time limitation for a second degree felony is set at six years. If a defendant were also charged with conspiracy in regard to that second degree felony offense, pursuant to NMSA 1978, §30-28-2, the conspiracy would be penalized as a third degree felony. The tampering statute, as most recently amended, NMSA 1978, §30-22-5, similarly steps down the tampering penalty from its associated offense. Although this bill would effectively shorten the time for the bringing of a conspiracy or tampering charge, both the prosecution and the defense of these charges along with their underlying offenses would be streamlined by resolution in single trial.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/csd