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FISCAL IMPACT REPORT

ORIGINAL DATE 01/18/11
 SPONSOR SCORC LAST UPDATED 02/02/11 HB _____
 SHORT TITLE Insurance Fraud Penalties SB 33/SCORCS
 ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Administrative Office of the Courts (AOC)
- Administrative Office of the District Attorneys (AODA)
- Corrections Department (CD)
- Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Corporations and Transportation Committee Substitute for Senate Bill 33 amends Section 59A-16-23 NMSA 1978 to add a new Subsection D that provides if six or more violations of insurance fraud as defined in this bill occur within any consecutive 18 month period, the amounts of the purported or potential losses resulting from those violations may be aggregated to determine the penalty. The time limitation for commencing prosecution shall begin when the last violation is committed.

The bill also provides that an agent, broker, solicitor, health care professional, health care provider, applicant or other person shall not knowingly or willfully make a false or fraudulent statement for the purpose of obtaining money or benefit, present or cause to be presented a false or fraudulent claim or proof in support of a claim for payment of loss under a policy, prepare, make or subscribe a false or fraudulent account, certificate, affidavit or proof of loss or other

document with intent that the same may be presented or used in support of a claim.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced 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.

SIGNIFICANT ISSUES

It should be noted that as time limitations for prosecution and penalties increase, and the opportunities for stiffer penalties increase, potential imprisonment tends to inspire defendants to retain attorneys and demand jury trials. Indigent defendants are entitled to public defender services.

The bill will change the date on which the statute of limitations would begin to run to the last date the last criminal act in the single scheme or continuous course of conduct was committed. This would have the effect of potentially lengthening the time the State would have to commence a prosecution for the type of insurance fraud prohibited by this statute.

The CD notes that the fiscal impact on them is probably minimal. They further state:

It is difficult to determine with certainty that this bill will result in more convictions. However, aggregating the violations and essentially extending the applicable statute of limitations makes it likely that the bill will result in at least few more criminal convictions on a yearly or two-year basis.

If there are a few more felony convictions, it will increase the prison population and parole/probation caseloads by a minimal amount.

There is no appropriation in the bill to cover any increases costs to the CD due to any increases in the prison population or parole/probation caseloads.

ADMINISTRATIVE IMPLICATIONS

The agencies affected by this bill will have to handle the provisions of this bill with existing staff as part of ongoing responsibilities.

DW/mew