

**NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.**

**Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.**

## FISCAL IMPACT REPORT

SPONSOR: Marquardt DATE TYPED: 2/18/01 HB 417  
 SHORT TITLE: Arson Penalties & Recovery of Costs SB \_\_\_\_\_  
 ANALYST: Rael

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative		Recurring	GF

(Parenthesis ( ) Indicate Expenditure Decreases)

Related to: HB 513

### SOURCES OF INFORMATION

State Fire Marshall  
 Attorney General's Office (AGO)  
 Administrative Office of the Courts (AOC)  
 Public Defender (PD)  
 Corrections Department (CD)  
 Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

The Arson Penalties & Recovery of Costs bill amends 30-17-5 NMSA 1987 to include all real and personal property and increases penalties for arson and negligent arson. The definition of arson is amended to include an intent to collect insurance. Finally, the bill provides for the recovery of firefighting costs for felony arson convictions.

### FISCAL IMPLICATIONS

There could be a significant number of new 2<sup>nd</sup> degree felony offenders because many buildings that are burned by arsonists have a value of over \$20,000.00. Many of them will also be sentenced to prison, but regardless of whether they are sentenced to prison or probation, the term will be longer for a 2<sup>nd</sup> degree felony than for a third degree felony.

The private prison annual cost of incarcerating an inmate based upon Fiscal Year 00 actual expenditures is \$21,670 per year for males. The cost per client to house a female inmate at the privately operated facility in Grants is \$24,348 per year. Any net increase in inmate population will be housed at a private

facility.

The cost per client in Probation and Parole for a standard supervision program is \$1,536 per year. The cost per client in Intensive Supervision programs is \$3,922 per year. The cost per client in Department-Operated Community Corrections programs is \$5,519 per year. The cost per client in Privately-Operated Community Corrections programs is \$10,724 per year.

The bill will result in a moderate increase in revenue to some governmental agencies who can recover the costs for putting out the fires set by convicted arsonists.

The bill may result in a minimal increase in revenue from the additional fires set by convicted arsonists. The bill may result in a minimal increase in revenue from the additional fires and Probation and Parole supervision fees collected from the additional number of offenders convicted under the expanded definition of the crime.

### **ADMINISTRATIVE IMPLICATIONS**

It will cost the judicial information system \$400 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.

The Public Defender reports that as with any statute that substantially raises penalties, costs concurrently rise. An accused is less likely to plea if he perceives he has "nothing to lose." More severe punishments translates to less pleas, more trials, and in the case of convictions, more appeals.

### **TECHNICAL ISSUES**

The recovery of costs provision specifically names: (a) arson in 2nd through 4th and (b) negligent arson in 3rd through 4th. It does not specially name aggravated arson in 2nd through 3rd. A party could argue that the Legislature specifically exempted these crimes out from the recovery provision.

### **OTHER SUBSTANTIVE ISSUES**

A party that fails to perform an act, but does so with willful disregard may not be covered under the definition of "negligent arson."

FAR/njw