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FISCAL IMPACT REPORT

SPONSOR: Mohorovic DATE TYPED: 02/21/01 HB 436
 SHORT TITLE: Final Adjudication in Capital Felony Case SB _____
 ANALYST: Rael

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			\$ 275.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Public Defender (PD)
 Corrections Department (CD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

The Final Adjudication in Capital Felony Case bill would require the New Mexico Supreme Court to issue a final decision on a death penalty case within two years of the filing of the notice of appeal with the court.

Significant Issues

There may be a potential constitutional issue regarding the separation of powers. (See Other Substantive Issues) Additionally, this bill would require significant additional funds to the criminal justice system to comply with the new time provision.

FISCAL IMPLICATIONS

The bill could result in an overall decrease in costs to the Corrections Department if it shortened the amount of time inmates spend on death row before being executed. It would also reduce costs if it served to increase the deterrent effect of the death penalty and resulted in fewer cases of first-degree murder.

The Public Defender Department reports that the proposed two year limitation on appeals will require, at a minimum, the addition of four Attorney III's and two Secretary III's at an annual cost of \$274, 956.

ADMINISTRATIVE IMPLICATIONS

The bill could indirectly improve the performance of the Correction Department's prison program if the bill deterred killings in prison. Furthermore, it could improve the morale of many Corrections Department employees and thereby increase efficiency.

OTHER SUBSTANTIVE ISSUES

The Corrections Department believes that this bill could serve to increase the deterrent effect of the death penalty, particularly in prison. Since many of the aggravating circumstances that allow for the death penalty involve murder in prison, the issue is of particular concern to the Department. Also, given the nature of prison, which is long-term incarceration, if an inmate murders someone on prison grounds and that same inmate is actually executed approximately three years later, knowledge of the incident will be fresh enough in the memory of a large enough number of inmates to act as a deterrent to most inmates.

The Public Defender believes that this bill would violate the separation of powers in N.M. Const., Art. III, subsection I and contradicts the vesting of all judicial power in the Supreme Court (Art. VI subsection 1). The vesting of judicial power with the judicial branch of government prevents the legislature from dictating court rules. Any time limit for appeals is within the judicial rule-making prerogative, and an attempt by the legislature to regulate this time limit would violate these constitutional provisions.

The Public Defender believes that a more practical method of speeding up the appellate process in death penalty cases would be to fund each district court to allow it to use stenographically recorded (computer-assisted) transcripts of trials. This would prevent the enormous duplication of time required for each attorney involved in any part of the system to review taped transcripts, which is the most significant factor contributing to delays in the current system.

POSSIBLE QUESTIONS

What are the consequences if the Supreme Court does not issue a final decision within the period required?

FAR/lrs:ar