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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/07  
 LAST UPDATED 3/2/07      HB 653/HJCS

SPONSOR HJC

SHORT TITLE Prohibit Terrorism      SB \_\_\_\_\_

ANALYST Wilson

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$0.1	\$0.1	\$0.1	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 227

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

Corrections Department (CD)

### SUMMARY

The definition of an “act of terrorism” to mean a knowing act of violence or a knowing threat of violence that is or may reasonably be expected to be dangerous to human life or to cause property damage in excess of \$125,000 and that is intended to intimidate or coerce a civilian population or influence the policy or conduct of a unit of government but does not include an act of peaceful protest or civil disobedience.

The amendment removes the definition for “civil disobedience” and incorporated its meaning into the definition for an “act of terrorism”.

The amendment also removes a knife, box cutter or similar device from the list of items that a person may not teach or receive instruction in its use.

#### Synopsis of Bill

The House Judiciary Committee substitute for House Bill 653 amends portions of the Antiterrorism Act to include the following definitions:

- “Act of terrorism” means a knowing act of violence or a knowing threat of violence that

is likely to cause death or great bodily harm or to cause property damage in excess of \$125,000 and that is intended to intimidate or coerce a civilian population or influence the policy or conduct of a unit of government.

- “Destructive device” is expanded to include a radiological, nuclear, chemical or biological agent capable of causing illness or death in people, animals or plants.
- “Law enforcement officer” is amended to include an employee of an agency charged with prevention or response to an act of terrorism.
- “Weapon of mass destruction” means any device any device capable of releasing a radioactive, biological, toxic or chemical agent in any form or by any means that will or may reasonably be expected to produce death, bodily harm or illness in a civilian population or to destroy an agricultural crop, livestock or a food supply.

This bill also amends Section 30-20A-3 NMSA 1978 to provide the following penalties:

- A person who teaches or demonstrates the use, application or making of any firearm, destructive device, weapon of mass destruction or technique capable of causing injury or death to any person with the intent that the knowledge or skill taught, demonstrated or gained be used in furtherance of an act of terrorism or the use or threatened use of a weapon of mass destruction is guilty of a third degree felony.
- A person who trains, practices or receives instruction in the use of any firearm, destructive device, weapon of mass destruction or technique capable of causing injury or death to any person with the intent that the knowledge or skill taught, demonstrated or gained be used in furtherance of an act of terrorism or the use or threatened use of a weapon of mass destruction is guilty of a third degree felony.
- Whoever commits an act of terrorism or uses a weapon of mass destruction is guilty of a first degree felony.

The bill further provides that prosecution under the Act does not prevent prosecution pursuant to another provision of law.

## **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.

CD believes the financial impact on them will be minimal to slight based upon the anticipated low number of convictions for these offenses. This may be offset some by a minimal amount of revenue generated by the probation/parolee supervision fees paid during the probation or parole period.

**SIGNIFICANT ISSUES**

The AGO provided the following:

Federal preemption of state criminal terrorism statutes should not be a problem because this bill amends an existing state law and federal preemption in the area of state criminal law is rarely if ever raised.

In addition, the proposed language is generally consistent with the federal anti terrorism statute. 18 U.S.C.A. Section 2331 defines terrorism as a “violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State and appear to be intended to 1 intimidate or coerce a civilian population 2. influence the policy of a government by intimidation or coercion or 3. affect the conduct of a government by mass destruction, assassination, or kidnapping.”

The bill is more specific by requiring that property damage be in excess of \$125,000 and the prohibited conduct now reads: “intended to intimidate or coerce a civilian population or influence government.”

The proposed language will make any person who actually commits an act of terrorism or uses weapon of mass destruction guilty of a first degree felony.

**RELATIONSHIP**

HB 653 relates to HB 227, Homeland Security & Emergency Management Act

DW/mt