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FISCAL IMPACT REPORT

SPONSOR Leavell ORIGINAL DATE 02/04/09
LAST UPDATED _____ HB _____
SHORT TITLE Six Month Aggregation of False Insurance Claims SB 117
ANALYST Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.01	\$0.01	\$0.02	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

New Mexico Department of Corrections (NMCD)

SUMMARY

Synopsis of Bill

Senate Bill 117 proposes to amend the New Mexico Insurance Code regarding insurance fraud crimes listed in Section 59A-16-23. If ten or more false insurance claims or false proofs in support of false insurance claims occur within any consecutive six-month period, the amounts of the losses resulting from all of these false insurance claims may be aggregated in determining the criminal penalty. For example, a person who submits 10 or more false claims (each for \$2,500) in six months would be convicted of one second degree felony (since the aggregate amount of those false claims is over \$20,000). Another example would be a person who submits 10 or more false claims (each for \$1,199) in six months would be convicted of one third degree felony (since the aggregate amount of those false claims is over \$2,500 but less than \$20,000).

FISCAL IMPLICATIONS

According to the Public Regulation Commission (PRC), there may be an indeterminate but probably minimal impact to the department. Since its inception in 1999, the Insurance Fraud Bureau has convicted 12 -20 individuals of various white-collar crimes, per year.

The New Mexico Corrections Department (NMCD) reports that the fiscal impact to the department is probably only minimal. It is difficult to determine if this bill will lead to fewer or more convictions. In either event, the total increase or total decrease in convictions is likely to be minimal. If it leads to a few more convictions, it will increase the prison population and parole/probation caseloads by a minimal to moderate amount. If it leads to a few less convictions, it will decrease the prison population and parole/probation caseloads by a minimal to moderate amount. There is no appropriation in the bill to cover any increases costs to the Department due to any increases in the prison population or parole/probation caseloads.

The contract/private prison annual cost of incarcerating an inmate is \$27,761 per year for males. The cost per client to house a female inmate at a privately operated facility is \$31,600 per year. Because state owned prisons are essentially at capacity, any net increase in inmate population will be housed at a contract/private facility.

The cost per client in Probation and Parole for a standard supervision program is \$1,205 per year. The cost per client in Intensive Supervision programs is \$3,848 per year. The cost per client in Community Corrections is \$3,830 per year. The cost per client per year for male and female residential Community Corrections programs is \$25,161.

SIGNIFICANT ISSUES

This change will allow the Insurance Fraud Bureau prosecutors to charge those submitting multiple false claims in petty misdemeanor or misdemeanor amounts with the appropriate felony level charge, based on the total amount of the claims within a six-month period.

ADMINISTRATIVE IMPLICATIONS

NMCD can likely absorb any slight increases in prison population or probation/parole caseloads without having to increase its FTEs.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Fraudulent medical providers and auto glass repairmen, among others, will continue to avoid felony level prosecution by submitting numerous individual petty misdemeanor and misdemeanor false claims.

DL/svb