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## FISCAL IMPACT REPORT

SPONSOR Trujillo DATE TYPED 2-7-05 HB 531

SHORT TITLE Billy Griego HIV and AIDS Act SB \_\_\_\_\_

ANALYST Collard

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 314

Relates to HB 530, SB 313, HJM 22 and SJM 21

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)

Division of Vocational Rehabilitation (DVR)

Department of Indian Affairs (DIA)

Health Policy Commission (HPC)

### SUMMARY

#### Synopsis of Bill

House Bill 531 establishes certain duties by DOH pertaining to persons living with HIV and AIDS. This includes facilitating coordination among all agencies, providing education, prevention and treatment services, administering the federal Ryan White grant, and providing clinical services, drug assistance, and insurance assistance. The bill also creates a medical advisory committee consisting of seven members, DOH's chief medical officer, four physicians and two consumers, to review HIV/AIDS drug formulary and policies. Finally, the bill creates an independent ombudsman to be part of a newly created office with the ombudsman appointed by and serving at the pleasure of the governor. The ombudsman function would be to record and review all complaints and requests for services. The bill requires DOH to provide an annual report on HIV/AIDS activities to the Legislature and the governor by December 15.

### Significant Issues

DIA indicates Native Americans constitute 10 percent to 11 percent of the population of New Mexico. Current data shows Native Americans representing approximately 6 percent of the HIV/AIDS epidemic in New Mexico. There are community based programs that currently provide HIV/AIDS and related prevention services to Native Americans. These organizations and other providers indicate a problem providing prevention services to individuals living in large rural areas where cultural and language barriers exist. Similarly, there are barriers to providing services to Native Americans with HIV and AIDS living in urban areas. For both rural and urban Native American populations, intervention, prevention and treatment services would need to be tailored to the needs of the target population within that setting.

It should be noted DOH recently contracted for an assessment of Native American case management services. The information collected from the assessment came directly from Native American clients, Native American providers and the Indian Health Service. The assessment would be a useful resource to use in coordinating HIV/AIDS services among agencies and in guiding the implementation of this bill.

DOH indicates major crises facing the department and the HIV/AIDS community are the costs of medications and assuring that HIV services and prevention programs remain available throughout New Mexico. The number of people living with HIV/AIDS continues to grow. The cost of drugs continues to rise. The New Mexico AIDS Drug Assistance Program (ADAP) provides life-saving medications to poor and uninsured New Mexicans living with HIV/AIDS. The Health Management Alliances (HMAs) service agencies provide life-saving care. The HIV Prevention community provides support to people at risk in preventing HIV. This bill is similar to the federal Ryan White CARE Act and would mandate the preservation of HIV/AIDS programs.

### **FISCAL IMPLICATIONS**

While there is no direct appropriation for this bill, DOH will have to take on administrative costs. However, DOH notes the FY06 budget includes almost \$14.6 million for direct HIV services including prevention, treatment and medications, with \$9.4 million from the general fund, \$3.9 million from federal funds and almost \$1.3 million from program revenues.

DVR notes the bill does not provide appropriations for the operations of the committee. The committee will expend funds for per diem, payment of services such as contracts, administrative functions, publication and dissemination of reports and DOH will assume the financial responsibility.

### **ADMINISTRATIVE IMPLICATIONS**

The functions in the bill can be handled by the current DOH staff; however, there would be administrative implications in setting up an "ombudsman" office external to DOH. DOH will undertake this as a priority, to the extent the budget will allow.

### **DUPLICATION, RELATIONSHIP**

House Bill 531 duplicates Senate Bill 314. Additionally, House Bill 531 relates to House Bill 530, and its duplicate Senate Bill 313, which establishes the governor's HIV and AIDS commis-

sion and also relates to Senate Joint Memorial 21 and House Joint Memorial 22, which calls for the improvement of HIV/AIDS services in the state.

## OTHER SUBSTANTIVE ISSUES

DOH notes limited access to specialized HIV services throughout New Mexico has resulted in the development of HIV “centers of excellence” permitting a standard of care to everyone who is HIV positive living in New Mexico. In an era of improved medical treatment, the number of people living with HIV/AIDS continues to grow. Effective antiretroviral therapy combined with access to quality service has led to a decline in the HIV positive population that progresses to AIDS. These medications and services can be costly.

Over the last three years, the New Mexico AIDS Drug Assistance Program (ADAP) has averaged 22 new clients enrolled in the program each year. During the past six months an average of five new clients has enrolled each month. In addition, the per-client cost of HIV-related medications has continued to rise.

DOH-contracted HIV services and ADAP are funded with federal and state monies. Given the growth in HIV/AIDS and the increasing costs, programs across the nation, including ADAP, are facing a serious fiscal crisis. For example, fifteen states have implemented restrictions to enrollment and utilization of their ADAP programs. These include capped enrollment, reduction in HIV medication formularies, and/or lowered financial eligibility for enrollment. In New Mexico, the challenge is to maintain a standard HIV medications formulary as well as quality services within available funds.

DIA states the main purpose of the bill is to ensure that consumers are the focus of funding and services provided. To this end, a statewide HIV and AIDS plan would need to include tribal input, to address any impediments to accessing services and programs for Native Americans, and to ensure that funding for consumer-based programs that serve Native American populations are maintained or expanded. Finally, a coordinated plan that is reflective of the New Mexico population and based on the needs of persons living with HIV and AIDS, including the unique needs of tribes and individual Native Americans living with HIV and AIDS is important.

DVR indicates the bill centers on a committee with a focus on health care issues, but people living with HIV/AIDS require coordinated services inclusive of psycho-social adjustment. DVR indicates the committee would do well in considering the larger array of services needed by people living with HIV/AIDS. The committee should be knowledgeable of psycho-social services available and how these services will augment and enhance health care services. DVR states people living with HIV/AIDS should be referred to DVR for employment services, to either return to employment, maintain employment or seek employment for the first time. Coordination of referrals to DVR is critical as well as communication and networking.

HPC notes, in a recent report by the Canadian HIV/AIDS Legal Network, Privacy Protection and the Disclosure of Health Information, recommendations were made for governments to take steps to ensure that legislation protects personal health information of people living with HIV/AIDS. Among those recommendations to consider that will ensure confidentiality when legislation is being proposed that includes sharing of information and oversight of an ombudsman are:

- Governments should ensure that legislation limits the circumstances in which health informa-

tion of a person is disclosed without consent.

- Legislation to include principles and practices that are to be followed where personal health information is to be disclosed without consent.
- The custodian of health information to take measures to ensure that the information is as complete and accurate as possible prior to disclosure.
- The disclosure is limited to the minimum amount necessary to accomplish the purpose for which the information is transmitted.
- The custodian should make best efforts to inform the person with HIV/AIDS of the anticipated disclosure of his or her personal information and attempt to seek consent to the disclosure.

#### DOH New Mexico HIV/AIDS Statistics

- As of December 2003, 1,910 New Mexicans are living with HIV/AIDS or 103.0 per 100,000 population. 1,158 (60.6 percent) have been diagnosed with AIDS. The breakdown by ethnicity is White (47.9 percent), Hispanic (39.7 percent), Native American (6.6 percent), Black (5.2 percent) and Asian/Pacific Islander (.5 percent).
- In 2003, 47 percent of people diagnosed with AIDS were Hispanic followed by White (34.2 percent), Native Americans (14.5 percent) and Black (4.3 percent). The Hispanic population continues to have the largest number of AIDS diagnoses annually since HIV/AIDS reporting began in 1998.
- Individuals living with HIV/AIDS in New Mexico nearly doubled from 892 in 1990 to 1,910 at the end of 2003.
- As of December 2003, 3,247 cumulative HIV/AIDS cases in New Mexico have been reported since 1981. 1,337 (41 percent) are known to have died.
- In 2003, the AIDS diagnoses and deaths reported in New Mexico represent the highest annual figures since 1998.
- From 1981 to 1996, diagnosed AIDS cases in New Mexico increased each year. With the availability of antiretroviral therapy in 1996 the number of cases reported each year has declined.

#### **ALTERNATIVES**

DIA suggests an alternative would be for the respective department staff to meet with Native American clients and providers to discuss state HIV and AIDS services and inter-agency opportunities with the goal of maximizing resources and ensuring best practices to this population.

**KBC/njw**