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FISCAL IMPACT REPORT

ORIGINAL DATE 02/13/13

SPONSOR Griego LAST UPDATED _____ HB _____

SHORT TITLE Viral Hepatitis Testing & Confidentiality SB 310

ANALYST Trowbridge

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
Human Services Department (HSD)
Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 310 (SB 310) would repeal NMSA 24-2E-1 through 24-2E-3 relating to testing of viral hepatitis, confidentiality and penalties. Repeal of these sections would have the following results:

- A viral hepatitis test would no longer be able to be performed on an individual without that individual's consent, even though another individual had been significantly exposed to hepatitis;
- An exposed individual would no longer be able to petition a court to order that the hepatitis test be performed on the source individual (that is, the one suspected of having hepatitis). Currently, that petition can be made regardless of the test results of the exposed individual;
- The limited situations under which disclosure of hepatitis test results can be made would be removed; and
- The penalties for violation of the disclosure provisions would be removed.

FISCAL IMPLICATIONS

The agencies report no fiscal impact.

SIGNIFICANT ISSUES

The Department of Health (DOH) reports that SB 310 is a DOH sponsored bill that proposes to repeal the Hepatitis Test Act, which would result in viral hepatitis being treated as any other infectious disease, without regulations that are disease specific. If SB 310 is enacted, testing for and disclosure of viral hepatitis test results would be governed by NMSA 24-1-1 through 24-1-34 of the New Mexico Public Health Act.

The Hepatitis Test Act currently prohibits anyone to whom the results of viral hepatitis tests are disclosed from further disclosing those results. This restriction is inclusive of the DOH, to which viral hepatitis test results are reported pursuant to infectious disease reporting statutes and rules. In accordance with these rules, viral hepatitis test results are reported to the DOH Epidemiology and Response Division (ERD). To investigate reports of infectious disease in New Mexico, ERD collaborates with the DOH Public Health Division (PHD) staff. The DOH General Counsel has determined that the Hepatitis Test Act prohibits ERD from disclosing viral hepatitis test results to PHD, thus compromising the DOH investigations of reported cases of viral hepatitis, including hepatitis A, hepatitis B, and hepatitis C. Repeal of the Hepatitis Test Act would allow the DOH to utilize public health best practices to investigate and respond to reported cases of viral hepatitis infection in New Mexico. To prevent and control the spread of viral hepatitis infection, the DOH has trained staff to respond effectively to reports of viral hepatitis infection. Key tasks include ensuring that persons who test positive for hepatitis are: notified of their test results; educated about disease progression and disease transmission; provided with appropriate vaccination(s); and referred to medical and treatment services. Additionally, in some cases the DOH can interrupt disease transmission by providing treatment, education and risk reduction training to persons with viral hepatitis infection and their potential contacts. Various federal and state laws such as the Health Insurance Portability and Accountability Act (HIPAA) already protect patient privacy and confidentiality. The DOH maintains that the additional restrictions in the Hepatitis Test Act prevent it from engaging in best-practice activities such as investigating newly reported cases to ensure they receive education and referrals to medical care and other services. The Human Services Department (HSD) reports it is not certain if other provisions in state or federal law relate to disclosure of hepatitis test results.

PERFORMANCE IMPLICATIONS

SB 310 relates to the DOH FY14 Strategic Plan, Goal 1: Improve Health Outcomes for the People of New Mexico and Goal 2: Improve Health Care Quality.

ADMINISTRATIVE IMPLICATIONS

By enacting SB 310, the DOH will be able to engage in best-practice activities such as investigating newly reported hepatitis cases to ensure individuals are tested and receive education and referrals to medical care and other services.