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## FISCAL IMPACT REPORT

SPONSOR Larrañaga ORIGINAL DATE 2/24/15  
LAST UPDATED \_\_\_\_\_ HB 461  
SHORT TITLE Food Service Sanitation Exemptions SB \_\_\_\_\_  
ANALYST Armstrong

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Environment Department (NMED)

Department of Health (DOH)

Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of Bill

House Bill 461 exempts certain organizations from the Food Service Sanitation Act if they serve food six times or less during a calendar year. The exempted organizations are "charitable organizations," "chartered branches, lodges or chapters of a national or state organization," "educational organizations," "environmental organizations," "fraternal organizations," "religious organizations" and "veterans' organizations." Each of these organizations is defined in the bill.

### FISCAL IMPLICATIONS

No fiscal impact.

### SIGNIFICANT ISSUES

NMED has several concerns about HB 461:

The New Mexico Food Service Sanitation Act ("Act") and the New Mexico Food Service and Food Processing Regulations ("Regulations") were enacted to protect public health. The Act and Regulations codify science-based food safety standards to ensure the

prevention of food-borne illness outbreaks.

First, exempting organizations described in HB 461 does not provide the opportunity for oversight, training, and permitting by NMED. Allowing organizations, especially ones not regularly involved in food preparation, to conduct food service without permitting and oversight may significantly impact the occurrence of food borne illness to the people attending events held by the organizations described in HB 461.

Second, the people attending events held by the organizations require the same protection provided by the Act and Regulations and the training, oversight, or permitting by NMED. The organizations described in HB 461 do not in any way pose less of a risk to public health than other for-profit organizations serving the same or similar food items to the general public.

If these organizations are allowed to operate without permitting by NMED, the organizations described in HB 461 would not have an obligation to follow the science-based food safety requirements of the Act or Regulations.

AGO analysis adds:

If a person were to become sick, ill or somehow injured as a result of consuming food or otherwise being on the premises of such an establishment, it could be difficult or impossible to assign liability or responsibility to the organization for the sickness, illness or injury if the organization is not incorporated (as a 501(c)(3) nonprofit, for example).

#### **ADMINISTRATIVE IMPLICATIONS**

According to NMED, HB 461 would require rule changes by the Environmental Improvement Board and for NMED to create and implement a tracking system to monitor the number of events held by each of the organizations described in this bill throughout the state in order to determine once an organization has exceed six events in one calendar year. Additionally, the term “occasion” is not defined in the bill, which would create significant issues when enforcing the new allowances.

JA/bb