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FISCAL IMPACT REPORT

SPONSOR: Hurt DATE TYPED: 2/24/03 HB _____

SHORT TITLE: Organ Donorship For No Motorcycle Helmet SB 239

ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

SOURCES OF INFORMATION

Responses Received From

Taxation & Revenue Department (TRD)
Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 239 requires a driver's license applicant who operates a motorcycle without a helmet and who, as the result of an accident, is pronounced brain dead by a physician, to be an organ donor, regardless of whether or not the individual completed forms to be an organ donor.

Significant Issues

SB 239 makes it mandatory for motorcycle operators that do not use helmets to donate their organs if they are killed in a motorcycle crash, regardless of their stated desires.

DOH states provisions in SB 239 appear to be an attempt to have something positive, such as an organ donation, arise out of the tragedy of a motorcycle crash death.

SB 239 may violate rights of individuals and their families and the religious beliefs and cultures of some New Mexicans. Since New Mexico does not have a mandatory motorcycle helmet law for adults, SB 239 may force motorcycle operators to wear helmets or to unwillingly donate their organs if they die in a crash.

In 2000, 22 people died in motorcycle crashes in New Mexico who were not wearing motorcycle helmets. That same year, there were 25,339 motorcycle registrations and a total of 639 motorcycle crashes in New Mexico. Of these crashes, 32 (5%) motorcycle riders died, 104 (16%) were unhurt, and 503 (79%) were injured. Of the riders that were injured, 315 (62.6%) were not wearing a helmet.

About 40% of states have mandatory helmet laws for motorcycle riders. Although they are controversial to pass, they are a proven strategy to reduce the severity of head injuries and the number of deaths to motorcycle riders. Compliance rates in those states are high (about 85-90%); because the helmet is so visible, enforcement is easy.

ADMINISTRATIVE IMPLICATIONS

SB 239 will require the Motor Vehicle Division of TRD to make modifications to the application for a driver's license.

TECHNICAL ISSUES

TRD believes Section 1 (C) of SB 239 provides that the application form for a driver's license include the following language: "As a condition of being issued a license to operate motor vehicles in New Mexico, a person operating a motorcycle without a helmet and who, as a result of an accident, is pronounced brain dead pursuant to Section 12-2-4 NMSA 1978 by a licensed physician, shall become an organ donor regardless of whether the person made an anatomical gift ...". The proposed language does not specify properly the presumed intent that the person died from a motorcycle accident that occurred while he or she was operating without a helmet.

TRD suggests the following instead: "As a condition of being issued any class of license to operate motor vehicles in the state of New Mexico, the applicant, by signing below agrees that he or she may be considered an organ donor pursuant to the Anatomical Gift Act (NMSA 1978 24-6A) if the applicant is pronounced brain dead pursuant to Section 12-2-4 NMSA 1978 by a licensed physician as a result of an accident occurring while being the operator of a motorcycle while not wearing a helmet."

DW/yr