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## FISCAL IMPACT REPORT

ORIGINAL DATE 1-28-06  
 SPONSOR Trujillo LAST UPDATED 2/11/06 HB HJM 26/aHFl#1  
 SHORT TITLE Recommendations for Public Health Code SB \_\_\_\_\_  
 ANALYST Collard

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	Administrative Implications		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Department of Health (DOH)
- Health Policy Commission (HPC)
- New Mexico Environment Department (NMED)
- Children, Youth and Families Department (CYFD)

### SUMMARY

#### Synopsis of HFL #1 Amendment

The House Floor Amendment to House Joint Memorial 26 strikes the Department of Health from the title of the Memorial and replaces it with New Mexico Health Policy Commission.

### FISCAL IMPLICATIONS

HPC indicates it has been named as a lead or collaborative agency in at least 10 other bills and memorials, which, if all were to pass and given their time constraints, could place some burden on HPC staff, time and department resources.

### SIGNIFICANT ISSUES

DOH indicates this is an appropriate change, in accordance with the Legislature's directive on Page 2, lines 18-20 that the New Mexico Health Policy Commission study the model state public health act and related law in conjunction with the Department of Health, the Children, Youth and Families Department, the Aging and Long-Term Services Department, the University of New

Mexico's Institute of Public Law and other interested parties.

Synopsis of the Original Joint Memorial

House Joint Memorial 26 directs HPC, in collaboration with DOH, other state agencies, the University of New Mexico's Institute of Public Law, and other interested parties, to study the Public Health Act and make recommendations for revisions of the Public Health Act to the Health and Human Services Committee November 2006 meeting.

**FISCAL IMPLICATIONS**

There is no appropriation associated with this joint memorial. The only expense to state agencies would be the cost of existing staff's time.

**SIGNIFICANT ISSUES**

DOH indicates the New Mexico laws affecting public health are sufficiently comprehensive, and have received significant and timely legislative updating over the years. DOH does not perceive any significant deficits in the legal structure within which it currently operates nor does DOH perceive that the model act will actually enhance its ability to deliver services to New Mexicans in accordance with federal and state mandates.

The most noticeable shortcoming in the current New Mexico public health laws is that they are not compiled into a single, well organized code. This organizational deficit does not, however, constitute an insufficiency in the substantive provisions of New Mexico's current public health laws.

The Center for Law and the Public's Health has developed a Model Public Health Act (MPHA). The website for the center, <http://www.publichealthlaw.net/Resources/ResourcesPDFs/MSPHA%20LegisTrack.pdf> tracks states' adoption of the model or parts of the model. No state has adopted the MPHA in total. There is also commentary on the website indicating that the MPHA was developed as a tool for states to review their own public health statutes, especially regarding the areas of isolation and quarantine, public health surveillance and privacy. The New Mexico legislature addressed the issues of quarantine and isolation with the passage in 2003 of the Public Health Emergency Response Act (NMSA 1978, Sections 12-10A-7 and 9), and with the enactment in 2002 of the updated procedures for dealing with persons with actively infectious and threatening communicable diseases, as codified at NMSA 1978, Section 24-1-15. Privacy of health information is protected in a variety of state and federal laws, most comprehensively in the federal HIPAA Privacy Rule, 45 CFR Sections 160 and 164, that became effective on April 14, 2003. DOH conducted internal reviews of the Model Public Health Act in 2004 and found that, current New Mexico statutory provisions typically address more comprehensively, more appropriately or in a less costly manner, virtually all public health issues addressed in the model law.

HPC indicates previous studies of the New Mexico Public Health Act have identified gaps and omissions within the Act. Additionally, public health law reform has been advocated by the US Department of Health, as well as several national health care organizations.

The laws of public health and community safety compose a common thread that connects local,

state, and federal governments. In consideration of potential biological, environmental, and terrorist threats, it is essential that state laws relating to health are able to effectively serve the rights of its citizens.

NMED should be involved in any effort to update New Mexico's Public Health Act because the department provides essential public health services to the citizens of New Mexico. These public health services include ensuring that public drinking water standards are met, that public pools are safe for public use, and that restaurants are safe for public use. As part of these functions, NMED provides surveillance and sampling functions at restaurants to detect food borne illnesses, in collaboration with DOH; has cutting edge grants with the Centers for Disease Control to ensure the safety of public water supplies; and participates in the public health council.

### **ADMINISTRATIVE IMPLICATIONS**

DOH indicates there is no appropriation in the joint memorial, yet completing the work required by the memorial will entail significant assignment of staff time and resources by the designated agencies. DOH will be significantly involved in the work required by this Memorial, particularly the staff of the office of general counsel.

### **TECHNICAL ISSUES**

Line 23 on page 2 should be amended as follows: “institute of public law, New Mexico environment department and other interested parties ....”

Lines 13 & 14 on page 3 should be amended as follows: “department, the aging and long-term services department, ~~and~~ the university of New Mexico institute of public law and the New Mexico environment department.”

### **OTHER SUBSTANTIVE ISSUES**

HPC notes a November 18, 2005 draft paper, *New Mexico Public Health Law Reform*, by Clifford Rees, JD and William Wiese, MN, MPH, identified the following samples of New Mexico law that public health care law reform could address:

- The New Mexico Public Health Act was enacted in its current form in 1973 and has been amended several times since then. Several of the powers delegated to the DOH have remained unchanged since the New Mexico laws of 1919, which was created in the aftermath of the Spanish Flu pandemic.
- Health related privacy issues should be revisited in the light of the enactment of recent federal legislation including the Health Insurance Portability and Accountability Act of 1996.
- There is no provision in New Mexico law related to tracking people who may have been exposed to a communicable disease by an infected person.
- There is no recognition of related to topics of current importance to public health including environmental health and nutrition.

**ALTERNATIVES**

DOH suggests an alternative would be to authorize and fund the compilation commission to initiate the demanding work involved in re-compiling the New Mexico statutes. Such a recompilation would necessarily address concerns that the public health laws are not well organized in an easy-to-access code. This alternative recognizes the need, after 28 years, to reexamine and reorganize all the New Mexico statutes, not simply those dealing with public health laws.

KBC/nt:mt