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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/21/11

SPONSOR Rue LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Emergency Medical Personnel Background Check SB 116/aSPAC

ANALYST Esquibel

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	\$436.6	\$436.6	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health  
 Department of Public Safety  
 Regulation and Licensing Department

### SUMMARY

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee (SPAC) amendments to Senate Bill 116 (SB116) clarify language in the Act related to criminal background check standards, the fees assessed, and the frequency of background checks on licensees.

Amendment 1 clarifies that an organization submitting criminal background information to the Department of Health's Emergency Medical Services (EMS) Bureau must meet the standards set by the Federal Bureau of Investigation, the New Mexico Department of Public Safety and the New Mexico Department of Health's Emergency Medical Services (EMS) Bureau.

Amendment 2 assures that only the actual costs assessed by the Federal Bureau of Investigation and Department of Public Safety will be collected from the applicants by the EMS Bureau, to a maximum of \$75.00.

Amendment 3 and 4 are language corrections allowing the addition of Amendment 5, which sets the frequency of criminal background checks on licensees for every other renewal period or every four years.

Synopsis of Original Bill

Senate Bill 116 would amend the Emergency Medical Services (EMS) Act to provide for criminal background checks of persons providing EMS in New Mexico. The effective date of SB116 is July 1, 2011.

**FISCAL IMPLICATIONS**

SB116 would establish a “fingerprint and background check fee not to exceed seventy five dollars (\$75.00) to be paid by the applicant or licensee”. DOH estimates the fee would generate \$436.6 thousand in general fund revenue.

DOH writes that although it plans to charge an amount that covers the actual cost, in order to allow for potential future increases in the fees charged by the Federal Bureau of Investigation (FBI) and/or the New Mexico Department of Public Safety, it may be safer to set the maximum fee at \$100.00.

The bill is unclear where the collected fees would be deposited and which agency, DOH or DPS, would receive appropriation of the fees.

**SIGNIFICANT ISSUES**

The State of New Mexico does not require criminal background checks to license emergency medical technicians (EMTs). Most career fire departments and many private ambulance services do criminal background checks on a routine basis; however there are many volunteer fire departments and other paid emergency services companies that do not routinely conduct criminal background checks for their volunteers and employees.

Pursuant to federal law, in order to utilize the FBI’s criminal background information system for employment or licensing purposes, a state agency must be authorized by a state statute to do so.

**ADMINISTRATIVE IMPLICATIONS**

The Department of Public Safety (DPS) indicates the provisions of the bill would require DPS to have minimal handling of the applicant fingerprint cards. Department of Health possesses a cardscan and this cardscan sends the request for the rap sheet to the DPS and FBI. The response will come back to DOH directly. There are times when DPS staff will have to facilitate in the process for various reasons, but this should be minimal.

However, the Department of Health writes the following regarding administration of SB116:

The Department of Public Safety (DPS), in their contract with other licensure agencies that utilize the Automated Fingerprint Identification System (AFIS), requires that the “user agency will be responsible for the acquisition, configuration, operation, maintenance and support of all equipment and software required at their site to network interface with the system”. Also, the contract states that, “The user agency will be responsible for all line installation and recurring line costs.”

Additionally, the DPS contract requires that agency personnel that utilize or have access to AFIS must satisfactorily pass a DPS criminal background check. DPS provides training to a requested “single point of contact system administrator” and other system operators.

Applicants for EMS licensure would be supplying two bank checks with their application – one check for licensure made out to EMS and one bank check for the fingerprint and background bank check made out to the Department of Public Safety.

The DOH/EMS would require staff time to develop and promulgate rules to implement the criminal history background screening of license applicants.

### **TECHNICAL ISSUES**

The Department of Health indicates the fingerprint and background check fees would be passed through to the Department of Public Safety; however, the bill does not specify the disposition of the collected revenue.

DOH writes that although it plans to charge an amount that covers the actual cost, in order to allow for potential future increases in the fees charged by the Federal Bureau of Investigation (FBI) and/or the New Mexico Department of Public Safety, it may be safer to set the maximum fee at \$100.00.

### **OTHER SUBSTANTIVE ISSUES**

The Department of Public Safety indicates it will send the proposed language in SB116 to the FBI Access Integrity Unit for language approval to confirm the language is sufficient should the bill be enacted into law to assure the State of New Mexico can use the FBI database.

### **POSSIBLE QUESTIONS**

The Department of Public Safety (DPS) indicates the provisions of SB116 would require minimal administrative input from DPS. However, the Department of Health appears to indicate DPS would handle more substantive administration of the provisions of the bill. There appears to be a discrepancy which agency would administer the provisions of SB116 and which agency would receive the appropriated funds.

RAE/bym