

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 48

51st Legislature, 1st Session, 2013

Tracking Number: .190480.1

Short Title: Large Employers in Health Insurance Exchanges

Sponsor(s): Senator Linda M. Lopez

Analyst: Mark Murphy

Date: January 24, 2013

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

Bill Summary:

SB 48 creates new sections of law to provide for large employer participation in any state health insurance exchange beginning January 1, 2017.

Among its provisions, this bill:

- defines “large employer” as having no less than 50 employees who are eligible for employer-sponsored health coverage;
- specifies that in determining the number of eligible employees the spouse and dependent(s) may be counted as a separate employee at the discretion of the employer;
- defines a “state health insurance exchange” as an entity established pursuant to state and federal law to provide qualified health plans to qualified individuals and qualified employers on the:
 - individual;
 - small group; and
 - large group health insurance markets;
- specifies particular requirements and rules that govern employers that were not in existence throughout a preceding calendar year; and
- specifies that to enter the health insurance exchange, the employer may not self-insure.

Fiscal Impact:

SB 48 does not contain an appropriation.

Substantive Issues:

A review of available information on this topic by LESC staff provided that SB 48:

- is in accordance with the federal *Patient Protection and Affordable Care Act* (PPACA) that authorizes states to admit medium and large employers into their health insurance exchanges beginning on January 1, 2017;

- defines “large employers” in New Mexico as employers who are considered medium and large by the federal PPACA definitions;
- may allow public school districts and charter schools in New Mexico to be considered as large employers who would be eligible to participate in the state health insurance exchange under SB 48;
- may enable public school districts and charter schools in New Mexico accessing the state health insurance exchange to provide additional options in employee healthcare; and
- does not allow large employers who self-insure to participate in the health insurance exchange.

According to the Human Services Department (HSD) bill analysis, the PPACA defines employers as follows:

- a small employer as having less than 50 employees;
- a medium employer as having between 50 and 100 employees; and
- a large employer as having more than 100 employees.

The HSD bill analysis also states that:

- large employers do not currently have tax credit supports like the individual or small group market;
- due to larger risk pools, a large employer may be able to find lower cost coverage for their employees outside of the health insurance exchange; and
- if the employer provides coverage through the exchange, the following, which applies to other products in the exchange, would apply to the large employer coverage:
 - “rating rules;”
 - essential benefits minimums; and
 - limits on deductibles or other products in the exchange.

Technical Issues:

The Public Regulations Commission (PRC) bill analysis states concerns regarding where to place this and other future statutes relating to New Mexico’s Health Insurance Exchange within the NMSA 1978. Potential options, the PRC suggests, might include:

- adding new sections to existing Articles within the *Insurance Code* (i.e. Chapter 59A);
- creating a new Article within Chapter 59A;
- creating a new Chapter (i.e. Chapter 59B).

Background:

In the fall of 2010, New Mexico received a \$1.0 million grant for the purpose of planning for the establishment of a state health insurance exchange. This grant was awarded for a period ending September 30, 2011, which was then extended to September 30, 2012. According to the Kaiser Family Foundation Health Reform Source, New Mexico’s health insurance exchange is being created through the New Mexico Health Insurance Alliance. On January 3, 2013, New Mexico received conditional approval from the US Department of Health and Human Services (USHHS) for its planned health insurance exchange.

According to the USHSS, a state health insurance exchange is a state-based competitive marketplace where individuals and small businesses will be able to purchase affordable private health insurance. According to the PPACA, a state health insurance exchange may be a government agency or a nonprofit organization and may be tailored to meet the needs of the state. The main functions of an exchange, as described within the PPACA, include:

- certifying qualified health plans;
- assigning ratings to each plan based on relative quality and price;
- providing consumer information on qualified health plans in a standard form;
- creating an electronic calculator to allow consumers to assess the cost of coverage;
- operating a website and toll-free hotline to provide information on qualified health plans;
- determining eligibility for the exchange and facilitating enrollment of eligible individuals in qualified health plans;
- determining exemptions from requirements on individuals to carry health insurance; and
- establishing a program to assist consumers in making choices about health care options.

Committee Referrals:

SPAC/SCORC–SPAC

Related Bills:

HB 45 *Transfer Insurance Regulation from PRC*

HB 168 *NM Health Insurance Exchange Act*

SB 148 *Analysis of Basic Health Program Costs*

SB 221 *NM Health Insurance Exchange Act*

SB 226 *Health Security Act*