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FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/13

SPONSOR Cisneros LAST UPDATED _____ HB _____

SHORT TITLE Health Security Act SB 226

ANALYST Trowbridge

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown*	Unknown*	Unknown*		N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications and Technical Issues

Relates to 2012 HB 168

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)
 Department of Health (DOH)
 Aging and Long Term Services Department (ALTSD)
 Human Services Department (HSD)
 Attorney General's Office (AGO)
 Public Regulation Commission (PRC)
 Retiree Health Care Authority (RHCA)

SUMMARY

Synopsis of Bill

Senate Bill 226 (SB 226) proposes to enact the Health Security Act, which would create a health care program to provide comprehensive coverage for all New Mexicans through a combination of public and private financing. The bill would:

- 1) establish a statewide comprehensive health care plan;
- 2) provide for health care planning;
- 3) establish procedures to contain health care costs;
- 4) create a state Health Care Commission;
- 5) authorize the Health Care Commission's powers and duties;
- 6) establish health care delivery regions and regional councils;

- 7) direct and authorize the development of a state Health Security Plan;
- 8) provide for transfer of Health Insurance Exchange personal property to the Health Care Commission;
- 9) provide penalties; and
- 10) direct the Legislative Finance Committee to determine financing options.

The Department of Health (DOH) reports SB 262 would provide major changes to the health care system in New Mexico and establish a fifteen member Health Care Commission with authority to:

- 1) appoint a health care provider advisory board and a health facility advisory board;
- 2) establish health care delivery regions to differentiate fees and capital expense allocations to encourage health care in rural, underserved areas;
- 3) establish a comprehensive claims review procedure;
- 4) negotiate payment plans with providers and facilities;
- 5) establish a quality improvement program for providers and health facilities;
- 6) negotiate annual operating budgets with health care facilities;
- 7) regulate major capital expenditures by health care providers and health care facilities (with certain exemptions);
- 8) establish a consumer, provider and health facility complaint process;
- 9) develop standard claims forms and a state-wide computer network for billing purposes and data collection;
- 10) require claims processing functions be performed entirely in New Mexico;
- 11) require health care providers and health care facilities to participate in a statewide computerized data system;
- 12) develop an annual health care budget to be within projected annual revenues;
- 13) require health care providers and health care facilities to submit certain reports to aid the commission in an ongoing evaluation of the Health Security Plan; and
- 14) apply for waivers and federal law changes and exemptions allowing the maximum contribution of federal money to the “Health Security Plan Fund.”

The DOH also states that SB 226 would:

- 1) prohibit the sale of private health care insurance in New Mexico to any eligible beneficiary after the date the health care plan is operating, except for supplemental benefits and certain retiree health care plans;
- 2) establish a “Health Security Plan Fund” and give the Commission the responsibility for the collection of premiums from eligible beneficiaries, employers, state and federal agencies, and other entities;
- 3) require the Superintendent of Insurance to ensure that workers' compensation and automobile insurance premiums on insurance policies written in New Mexico reflect a lower rate to account for the medical payment component to be assumed by the health security plan;
- 4) require educational institutions to provide coverage under the health security plan for nonresident students;
- 5) require the Legislative Finance Committee (LFC) to determine financing options for the health security plan;
- 6) provide for a transition period for those covered by existing health care plans; and
- 7) require the Secretary of the HSD to seek a waiver to allow the state to suspend operation of any health benefits exchange or health insurance exchange.

The provisions of SB 226 would become effective July 1, 2013. If the 52nd Legislature approves implementation and financing, the Health Security Plan shall be operational by July 1, 2017.

FISCAL IMPLICATIONS

The Public Regulation Commission (PRC) indicates the fiscal implications of SB 226 would be substantial. The Human Services Department (HSD) notes an IT Impact: with its ASPEN system that may need additional interfaces built or changes to existing interfaces based on how this is implemented. There is no way to estimate this effort or cost at this time.

SIGNIFICANT ISSUES

The Attorney General's Office (AGO) observes that Health Care Commission members receive mileage and per diem as well as \$200/meeting, capped at \$12,000 per year. Given the complexity and amount of work to be performed, this compensation may not be sufficient to attract qualified individuals.

Additionally, the AGO states the provision mandating an annual actuarial audit may be overbroad, as not all aspects of the budget for the health security plan are appropriate for actuarial review.

The DOH indicates that the Health Care Commission's duties are comprehensive and would include analyzing developments in federal law and regulation relevant to the New Mexico Health Security Plan. The Commission would also apply for any necessary federal waivers. The DOH also states that in establishing Comprehensive Statewide Health Care, SB 226 may conflict with the federal Patient Protection and Affordable Care Act (PPACA) of 2010. Much of the language included in SB 226 is very similar to what is included in PPACA. SB 226 is unclear on how Comprehensive Statewide Health Care would be enacted.

The DOH reports that in this bill "State-operated health care facility" is included in the definition of "health facility." The "health resource certificate" provisions in Section 33 may impact the DOH-run health facilities. They may also conflict with the DOH's current role in licensing of health facilities. SB 226 would require prior approval by the Commission for major capital expenditures for the DOH facilities. The Commission would establish compensation methods for health care providers and health facilities and adopt standards and procedures for negotiating and entering into contracts with participating health care providers and health facilities, including the DOH facilities. The Commission would establish capital budgets for health facilities, including state-operated health care facilities. The ability of the commission to acquire or lease real property, identified at section 12(H), may impact the General Services Department (GSD).

The DOH states that in the long run, the new health services reimbursement mechanisms that would be mandated under the provisions of the SB 226 could have significant impact on the DOH. SB 226 would emphasize clinical preventive services under the new health care plan for the State. It would be important for the DOH to negotiate appropriate reimbursement arrangements with the Health Security Plan Health Care Commission for services provided in its local public health offices.

Additionally, the DOH would be responsible for providing staff to assist the nominating committee until the commission was appointed. The dispute resolution section does not discuss the current role of the Insurance superintendent in resolution of disputes with insurance carriers. The relationship of the Insurance Superintendent to the Commission is unclear.

The PRC states that SB 226 would, upon full implementation, eliminate most of the private health insurance industry in New Mexico. While SB 226 assumes that the health security plan will reduce health care costs in New Mexico, it is unclear how large a reduction in costs and premiums will occur.

PERFORMANCE IMPLICATIONS

The Department of Aging and Long-Term Services Department (ALTSD) states that if enacted, SB 226 would significantly reduce the role of the NM Aging and Disability Resource Center, (an integral part of the ALTSD) by eliminating person-centered counseling, which is the advocacy focused, nationally recognized standard by the Administration on Aging. Under the Health Care Security Act, there would be no need to provide benefits counseling and MEDBANK services as virtually all New Mexicans would be covered under the plan created by the Commission and there would be no choices to make. The Commission would likewise approve a preferred drug list and provide for payment rates.

The ALTSD also indicates that consumer input also appears to be narrowed under SB 226 as the Commission, albeit after public input at hearings and from advisory boards and regional councils, will be the final decision maker. There will exist no outside options for consumers. The ALTSD adds that executive oversight responsibilities seem to be eliminated or diminished. This may have an adverse impact on the quality and availability of health care.

The PRC observes that substantial efforts are being expended by many parties to create New Mexico's Health Insurance Exchange, which would be operational for only a few years before the Act's Health Care Commission would request federal approval to disband the Exchange. It is also uncertain whether the Commission would obtain such federal approval.

ADMINISTRATIVE IMPLICATIONS

The DOH maintains that SB 226 would have definite administrative impacts on the DOH. Prior to the appointment of the Health Care Commission, the DOH staff would likely be called upon to support the activities of the Health Care Commission. The extent of this responsibility is unknown.

The ALTSD states that SB 226 may create administrative complications for New Mexicans, who would not be able to obtain one-stop, personalized assistance through the Aging and Disability Resource Center services and programs.

SB 226 would have administrative impact on the HSD's Office of Health Care Reform (NMOHCR). Prior to the appointment of the Commission, NMOHCR and the HSD staff may be called upon to support the activities of the Health Care Commission. Additionally, the HSD states that Sections 46 and 47 of SB 226 requires the transfer of the Health Insurance Exchange property, functions and duties to the Health Care Commission. As such, HSD will need funding for staff in addition to the staff requested to accommodate for the increased workload generated

from the number of individuals eligible for health care coverage through the Health Care Commission. A determination for Medicaid Eligibility is required for every application that is submitted through the Health Insurance Exchange or if transferred as required in SB 226, the Health Care Commission. It is estimated that 50 percent of those that apply for services through the Exchange or Commission will be eligible for Medicaid Coverage with the expanded Medicaid Coverage. Many of the applications requiring the ISD determination will also be eligible for other categories of public assistance, such as benefits from the Supplemental Nutrition Assistance Program (SNAP), cash assistance and Low Income Home Energy Assistance Program (LIHEAP). The Executive Recommendation for the HSD includes funding for the projected caseload increase.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The HSD indicates that SB 226 is very similar to HB 262 except under Section 45: Reimbursement to Health Security Plan from Federal and other Health Insurance Programs. HB 262 contains the following:

- 1) Commission shall seek payment to the plan from Medicaid, Medicare or other insurance program.
- 2) Commission shall seek to maximize federal contributions and payments for health care services provided in New Mexico. They will also ensure that contributions for the federal government for health care services and will not decrease in relation to other state.
- 3) Commission shall maintain sufficient reserves to provide for catastrophic and unforeseen expenditures.

HB 262 is also related to HB 168 and SB 221, both of which propose to enact the New Mexico Health Information Exchange Act. HB 262 removed language regarding “Healthy Security Plan Fund”; *i.e.*, Section 45.

The ALTSD and the HSD state that in establishing Comprehensive Statewide Health Care, SB 226 likely conflicts with the federal PPACA of 2010.

The HSD also notes that “State-operated health care facility” is included in the definition of health facility. The “health resource certificate” provisions at section 33 may impact health facilities. They may also conflict with the current role in licensing of health facilities. SB 226 would require prior approval by the Commission for major capital expenditures for State of New Mexico run facilities. The Commission would establish compensation methods for health care providers and health facilities and adopt standards and procedures for negotiating and entering into contract with participating health care providers and health facilities. The Commission would establish capital budgets for health facilities, including state-operated health care facilities.

TECHNICAL ISSUES

SB 226 states the bill makes an appropriation. However, there is no reference to an appropriation in the body of the bill. The PRC indicates that medical payment coverages currently contained in workers compensation insurance and in automobile insurance would be assumed by the health security plan. The Act requires the Superintendent to estimate the resulting reduction in workers compensation and automobile insurance premiums.

Beyond this limited role, the Act does not specify what duties, if any, the Superintendent would maintain to oversee the coverages provided by the health security plan and ensure that they comply with state and federal requirements and mandated benefits.

OTHER SUBSTANTIVE ISSUES

The PRC states that the Act would require hospitals to obtain the Commission’s approval before undertaking major capital improvements.

The Health Security for NM Campaign supports the bill, stating:

“Everyone covered by the NM Health Security Plan will receive the same comprehensive benefits regardless of age, income, employment, or health status. Coverage must be at least as comprehensive as the state employees’ health plan, and will include doctor visits, hospital stays, prescriptions, preventive care, lab work, and specialist services.

Current Medicaid long-term care coverage will continue, as well as private long-term care insurance. There is a parity requirement for mental health care benefits. Recipients of Medicaid mental health coverage will not lose any entitled benefits. The Commission set up by the NM Health Security Act must develop a plan to coordinate mental health services and to integrate and expand long-term care services into the Plan.

NM Health Security Plan members and employers may buy supplemental health coverage on the private insurance market, should they wish to do so.”

The Health Security for NM Campaign reports that the Health Security Act has been endorsed by 18 municipalities and 15 counties in New Mexico.

DISPARITIES ISSUES

The DOH notes that the 2011 National Healthcare Disparities Report published by the Agency for Healthcare Research and Quality (AHRQ) states that “health care quality and access are suboptimal especially for minority and low-income groups” and that while quality is improving access and disparities are not. www.ahrq.gov/qual/qdr11.htm

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The DOH states that the Health Security Act, including its many provisions, would not be enacted to provide for a comprehensive statewide health care plan and a Health Care Commission. The PRC indicates that the health delivery system in New Mexico will reflect the mandates of the federal Affordable Care Act rather than become a single-payer system.

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