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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 2/7/17

**SPONSOR** Ivey-Soto/Rep. Smith      **LAST UPDATED** \_\_\_\_\_      **HB** \_\_\_\_\_

**SHORT TITLE** Essential Health and Disease Functions      **SB** 223/aSPAC

**ANALYST** Chilton

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Nearly Duplicates 2015 Senate Bill 362, “Changes to Department of Health Functions,” with some additions and changes to that bill.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Indian Affairs Department (IAD)  
 Department of Health (DOH)  
 Public Education Department (PED)

### SUMMARY

#### Synopsis of Amendment

The amendment changes language in the bill to

- Make the change consistent from “Indian” to “Native American”
- Include shelter homes in the list of health facilities
- Removes redundant language regarding tuberculosis
- Makes several other small language clarifications.

#### Synopsis of Bill

Senate Bill 223 would codify language in a number of areas that:

- 1) Requires DOH publish a state health improvement plan, based on findings from state health assessments and assistance from others of DOH’s choosing, at least every 5 years;
- 2) Defines “conditions of public health importance” to include threats that can

- reasonably be expected to lead to adverse health effects in the community;
- 3) Clarifies authorities and responsibilities of DOH, including:
    - a. identifying ways to evaluate and address community health problems;
    - b. responding to public health emergencies and assisting communities in recovery;
    - c. ensuring the quality and accessibility of health care services;
    - d. ensuring a competent public health workforce;
    - e. cooperating and contracting with Native American entities; and
    - f. maintaining and enforcing rules for the control of conditions of public health importance and for immunization against such conditions.
  - 4) Renames health districts as health regions, and aligns relationships between regional health officers and school nurses to reflect current practice;
  - 5) Requires local public health offices to provide space for health care staff;
  - 6) Renames sexually transmitted diseases as sexually transmitted infections;
  - 7) Clarifies public health reporting requirements for sexually transmitted infections;
  - 8) Renames “infectious form of tuberculosis” as “active tuberculosis” consistent with Centers for Disease Control and Prevention guidance;
  - 9) Aligns disclosure of protected health information with federal statutes (e.g., the Health Insurance Portability and Accountability Act, HIPAA);
  - 10) Specifies authority of DOH to petition the court for orders of isolation or quarantine where a delay would prevent or limit transmission of communicable disease; provides due process protections for any person subject to such orders; and establishes powers in accordance with New Mexico’s Public Health Emergency Response Act;
  - 11) Removes provisions that allow parents to exclude their children from the statewide immunization registry;
  - 12) Requires cooperation and the making of agreements on essential public health services with Native American entities;
  - 13) Requires licensure, development of rules and inspection of health facilities, including child care facilities (those receiving state or federal funds) and freestanding birth centers (but not group homes as defined in Section 9-8-13 NMSA 1978), establishing fees for licensure and inspection, providing alternatives when a facility is found to be violating one or more department rules, hearing and appeal procedures
  - 14) Clarifies the definition of a recipient of EMS Fund monies and stipulates that recipients must meet DOH requirements for certification, which includes participation in EMS data collection and submission to the state emergency medical systems database and participation in local design and planning for delivery of services;
  - 15) Adds a definition of “regionalized EMS agencies;” allows DOH to fund these agencies by not restricting the agency to the 1 percent maximum award from the Local System Funding portion of the EMS Fund; removes EMS Regional Offices from the eligibility for the 3 percent administrative portion of the Fund; specifies applicants appealing their award from the Fund to be notified within 30 days of any decision instead of by June 30 each year which does not reflect application process;
  - 16) Requires DOH to establish a list of reportable conditions of public health importance. The list includes conditions of humans or animals caused by exposure to toxic substances or other pathogens or conditions. The list shall prescribe the manner of and person responsible for reporting these conditions of public health importance; classify each reportable condition according to urgency; be disseminated to health care providers and other persons required to report; and be revised as necessary;
  - 17) Authorizes DOH to enter into agreements with federal and tribal public health agencies for sharing of information regarding conditions of public health importance;

- 18) Authorizes DOH to establish testing and screening procedures and programs to identify conditions of public health importance among individuals and specifies conditions requiring quarantine of individuals, provides due process protections for any person subject to such procedures, establishes confidentiality protections consistent with federal legislation and specifies that the conditions of quarantine and isolation be “humane”; and
- 19) Aligns New Mexico vital records laws with national model law promulgated by the U.S. Health and Human Services Department National Center for Health Statistics.

## **FISCAL IMPLICATIONS**

As DOH is already functioning in line with the functions outlined above and enumerated at much greater depth in the bill, DOH does not expect there to be any impact on its budget.

## **SIGNIFICANT ISSUES**

Senate Bill 223 would, in the words of the Department of Health, be “consistent with current NMDOH authorities,” and “would update New Mexico public health laws to reflect current best public health practices, support the provision of services and infrastructure necessary to address emerging public health threats, and improve health outcomes for all New Mexicans” by replacing outmoded language with current public health practice. The bill is substantially similar to 2015 Senate Bill 362, with a few changed and added provisions.

The Department of Health notes the history of the suggestions that led to Senate Bill 223:

The New Mexico Department of Health (NMDOH) was accredited by the national Public Health Accreditation Board in November 2015. As part of the process leading up to accreditation, NMDOH commissioned a comprehensive assessment of New Mexico’s public health laws; this assessment was completed in April 2013. The assessment and subsequent report was completed by James Hodge and colleagues at the Public Health Law and Policy Program, Sandra Day O’Connor College of Law in Tempe, Arizona (New Mexico Public Health Law: Review and Reform, Hodge et. al, 2013).

The Hodge report identified areas of opportunity to reform, improve, and update New Mexico’s public health laws. Though New Mexico’s public health laws are overall “commendable” according to the Hodge report, many laws have not changed much, or at all, since their enactment. SB223 proposes to update New Mexico’s public health laws in accordance with the recommendations in the report. The proposals also reflect language and themes found in the Turning Point Model State Public Health Act, which has provided an additional basis of public health legislative reform in over half of the states during the past decade. The proposals in SB223 are in line with NMDOH efforts to maintain Public Health Accreditation.

Senate Bill 223 does not contain any discussion of immunization or the procedure whereby parents obtain exemptions from school requirements for immunizations.

PED notes effects that the bill would have regarding sexually transmitted infections:

Section 9 states that “any person regardless of age” may consent for an examination and the treatment of an STI by a licensed “health care provider” which has been changed

from licensed “physician.” This change appears to broaden the eligibility of who may provide the examination and treatment. This may result in an increase of the number of individuals examined and treated for STIs in New Mexico.

Section 13 of SB223 contains updates to the disclosure of STIs and includes the fact that a written statement must be included with all disclosures notifying the individual that there may be penalties for unauthorized disclosure. These penalties may include jail time and fines. The proposed amendments to the STI section clarify the fact that this written statement should not be construed as limiting an individual from sharing his or her own results.

PED notes further that Section 19, which deals with testing or screening for conditions of public health importance, does not contain a clause dealing with the patient’s informed consent. This may be intentional, indicating that public health considerations outweigh individuals’ potential unwillingness to undergo testing, but the instances in which informed consent is to be undergone might well be specified.

### **PERFORMANCE IMPLICATIONS**

PED notes the importance of health to education. As former US Surgeon General Jocelyn Elders said, “You cannot educate a child who is not healthy, and you cannot keep a child healthy who is not educated.”

### **ADMINISTRATIVE IMPLICATIONS**

IAD notes that there is a tribal liaison to DOH. If further consultation with IAD were needed, there would be cost to the staff time required.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

New Mexico’s public health laws would not be up to date and truly reflective of the scope of work performed by the Department of Health.

LAC/jle/sb/jle