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FISCAL IMPACT REPORT

ORIGINAL DATE 02/12/09

SPONSOR Gonzales LAST UPDATED _____ HB 339

SHORT TITLE Health Security Act SB _____

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$500.0	Non-recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$0.1		Recurring	Health Security Plan Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Health Policy Commission (HPC)

Department of Health (DOH)

Department of Finance and Administration (DFA)

Higher Education Department (HED)

SUMMARY

Synopsis of Bill

House Bill 339 enacts the Health Security Act to provide a mandatory comprehensive statewide health care plan through a combination of public and private financing; control of health care costs; and, by providing preventative health care for all New Mexicans. The act outlines procedures for the implementation of a health care commission of 15 members reflecting the geographic diversity of the state tasked with establishing the entity for the health security act. The commission will have a two-year development period to work with state agencies and the public, collect, review and analyze pertinent health care data to see whether the plan is financially feasible. The bill requires financing recommendations made by the Legislative Finance Committee (LFC) be approved by the legislature in 2011 before this plan goes into effect.

The bill excludes active military, military retirees, TRICARE recipients and federal retirees. Nothing in the Act is to affect coverage pursuant to the federal Employee Retirement Act. Tribes and plans covered under ERISA may opt to join.

Specific provisions of the bill include:

1. A 15 member health care commission and its employees;
2. The adoption of a five year plan by the new commission which will:
 - emphasize preventive care, health care for rural, underserved areas, and inhome/community-based alternatives to institutional health care;
 - negotiate compensation methods for health care providers and health facilities;
 - establish capital budgets for health care facilities;
 - negotiate reciprocity agreements with other states;
 - develop claims and payment procedures;
 - provide for health care data collection and analysis to improve health care quality and control health care costs;
 - appoint a committee governing prescription drugs and medical devices;
 - study and report on impact of provider professional liability insurance on health care costs and access to health care;
 - provide for coverage of most physical, mental and behavioral health care services, dental services, long- term care, prescription drugs and medical supplies;
 - report annually to the legislature; and,
 - become effective contingent upon approval by the 2011 legislature, and if so approved, be implemented by July 1, 2012.
3. Granting the commission the authority to:
 - appoint a health care provider advisory board and a health facility advisory board;
 - establish health care delivery regions to differentiate fees and capital expense allocations to encourage health care in rural, underserved areas;
 - establish a comprehensive claims review procedure;
 - negotiate payment plans with providers and facilities;
 - establish a quality improvement program for providers and health facilities ;
 - negotiate annual operating budgets with health care facilities;
 - regulate major capital expenditures by health care providers and health care facilities (with certain exemptions);

- establish a consumer, provider and health facility complaint process;
 - develop standard claims forms and a state-wide computer network for billing purposes and data collection;
 - require health care providers and health care facilities to participate in a statewide computerized system;
 - develop an annual budget to be within projected annual revenues;
 - 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,
 - apply for waivers and federal law changes and exemptions allowing the maximum contribution of federal money to the “health security plan fund”;
4. Provides for subrogation rights;
 5. Prohibits 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;
 6. Establishes a “health security plan fund” and gives the commission the responsibility for the collection of premiums from eligible beneficiaries, employers, state and federal agencies and other entities;
 7. Requires 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;
 8. Requires educational institutions to provide coverage under the health security plan for nonresident students;
 9. Requires the LFC to determine financing options for the health security plan; and
 10. Provides for a transition period for those covered by existing health care plans.

FISCAL IMPLICATIONS

The appropriation of \$500 thousand contained in this bill is a non-recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of FY10 shall revert to the General Fund. This bill creates the health security plan fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

The plan attempts to put most New Mexicans under one risk pool as a way to leverage purchasing power and simplify the multiple-payor system of health insurance coverage; realize cost savings from the elimination of duplicative administration; and, protect the State and consumer from rising health care costs. It is still unclear how the bill proposes to generate sufficient revenues for a self-sustaining health insurance program to cover all New Mexicans.

This bill creates a new health security plan fund to receive all premiums from eligible beneficiaries, employers, state and federal agencies and other state appropriations. In order for this to occur, the commission will need to apply for waivers and enter into agreements with all federal health care programs to enable the state to deposit federal payments for health care services covered by the plan into the health security plan fund; seek amendments to the federal Employee Retirement Income Security Act to exempt the state from certain provisions to allow the commission to extend coverage to as many New Mexicans as possible; determine

expenditures of indigent funds; and, seek payment from Medicaid, Medicare and all other insurance programs for any reimbursable payment provided under the plan.

The bill requires the LFC to develop financing recommendations for the plan and provide such to the legislature for approval or modification before 12/15/09 for consideration by the 2010 Legislature. The financing recommendations are expected by the LFC before the commission's plan for coverage is known. The LFC is to be guided by benefit packages and costs of such health care coverage provided to state employees; and options may set beneficiary income-based premium payments, sliding scale premium payments and Medicare credits and employer contributions. There is an appropriation of \$500 thousand in the bill directed to the LFC for this effort; however, there may be more time and resources needed for the Committee to complete this great task.

The plan will begin July 1, 2012 if approved by the 2010 Legislature, and during the fiscal year preceding that date, the commission will become operational with support of appropriations from the general fund. Beginning in FY13 private insurance will be replaced by the health security plan for those covered by the plan. The private health insurance industry currently pays premium taxes and premium tax surcharges which are revenues for the general fund. Those insurers who collect over \$3 billion dollars in premiums pay approximately \$120 million in premium taxes and premium tax surcharges. A substantial portion of those premium taxes could be eliminated.

The Health Coverage for New Mexicans Committee (HCNMC) was created by the Legislature and the Governor to study three models of universal health coverage. The HCNMC engaged Mathematica Policy Research, Inc. with costing out three different approaches to universal coverage in New Mexico. One of the models costed by Mathematica was based on the Health Security Act. Mathematica's report indicated that a universal coverage plan could be achieved at a savings in total cost over what we as New Mexicans currently spend on health care. Each of the reform models promised cost savings, but it remains unclear whether they included real cost controls.

With respect to depositing administrative penalties in the current school fund, the meaning of "current school fund" is unclear and does not specify why penalties would be deposited into the school fund versus the state General Fund.

DFA notes that the bill allows for \$200 in compensation per member per meeting. The current rate of per diem for board and commission members is \$95.

According to the December 2008 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is \$293 million, or 2.6 percent, less than the FY09 appropriation. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

SIGNIFICANT ISSUES

The bill will effectively subject all existing health care facilities and health care providers in New Mexico to state control. It will require mandatory participation in the health care plan by most state residents other than persons covered by federal health plans, military personnel, and members of Indian tribes covered by federal health plans. It will prohibit the sale of health insurance in New Mexico for health care that is covered by the health security plan except for

retiree health insurance plans that do not enter into contracts with the health security plan. The private sector would continue to provide the actual delivery of health care but will be required to comply with the rules of the commission and provisions of the health care plan.

The commission will need to apply for all applicable federal waivers. Until such federal waivers are actually approved, the commission will be unable to put into place the programs/services requiring such waivers, which would impact planning and budget considerations.

The bill attempts to address health care costs that are reflected in other types of liability insurance. The theory of this section is that, since we have universal coverage, the premiums for these other liability coverage can be reduced because additional health coverage won't be needed. However, nothing in this bill removes an employer's liability under the worker's compensation act. Nor does this bill eliminate liability created by careless and reckless driving. State law would require the health care commission to recover damages from parties liable for their actions.

Any employer sponsored health insurance plans subject to ERISA are not required to participate. ERISA's original purpose was to regulate employee pension plans. ERISA also precludes state agencies and governments from regulating self-insured business insurance plans.

The commission would establish the state's health care budget, budgets for health care facilities and limits rate increases in the Consumer Price Index (CPI) rate. While this may appear to be a means of controlling health care costs, one potential negative consequence is a potential disincentive for providers to continue to do business in New Mexico if the budget established by the commission is not sufficient.

The bill requires the Superintendent of Insurance to ensure that worker's compensation and automobile insurance premiums on insurance policies reflect a lower rate to account for the medical payment component to be assumed by the health security plan.

A pharmaceutical formulary as proposed in the bill will require the commission to negotiate with manufacturers, which may conflict with the federal Medical Reform of 2004.

It appears that the Commission will be charged with Vital Statistics. It is unclear how this would impact the existing Vital Statistics Bureau at DOH.

The bill also requires the state's colleges and universities to assess students for health insurance through their fees. This may increase the costs of higher education in New Mexico even though many of students are dependents of NM state residents who will be covered by their parents' policy. Nonresident students apparently may opt out of the fees if they can show proof of out-of-state coverage.

ADMINISTRATIVE IMPLICATIONS

Agencies report redistribution on an administrative and staffing level will occur as roles and responsibilities are repositioned to support the Act.

The bill charges DOH with the responsibility of providing staff to the HCC membership nominating committee, until a commission is appointed. The act proposes adding the state's

Medicaid program into its infrastructure, but does not include HSD in its implementation or planning.

The multiple data collection efforts might be duplicative of powers and duties of existing state entities. The bill does not outline how existing entities will interact with the Health Security Act.

OTHER SUBSTANTIVE ISSUES

The commission may find it difficult to bring in certain insured persons or groups accustomed to a certain level of benefit coverage if the state's coverage provided is less.

Socioeconomic disparities exist with respect to access to health care. In 2005, 20.4% of New Mexicans were without health insurance, compared to 15.9% for the US. According to the HPC's *Universal Health Coverage – Research on States and Unsolved Issues* report published in August 2007, various states have addressed universal health care.

Persons eager for insurance reform believe New Mexico's reliance on private insurers may make universal coverage unaffordable in today's market.

Eight-eight percent of small employers in New Mexico employ less than 20 employees; 41% of those do not offer health insurance. Eight-one percent of the small employers that do not currently provide coverage cite cost as the primary reason and 67% of uninsured individuals say it is affordability.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There will be no new statewide health care commission to oversee a new health care system in New Mexico through this bill.

AHO/mt

