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FISCAL IMPACT REPORT

SPONSOR Ortiz y Pino ORIGINAL DATE 02/24/11 HB _____
LAST UPDATED _____
SHORT TITLE State Health Care System, CA SJR 5
ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$104.0				General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Department of Health (DOH)

Human Services Division (HSD)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 5 proposes to amend Article 2 of the constitution of New Mexico by adding a new section to read:

Health care is a fundamental right that is an essential safeguard of human life and dignity, and the state shall ensure that every resident is able to realize this right by establishing a comprehensive system of quality health care that is accessible to each resident on an equitable basis regardless of ability to pay.

The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

In accordance with Section 1-16-4 NMSA 1978, upon receipt of the certified proposed constitutional amendment or other question from the Secretary of State, the county clerk shall include it in the proclamation to be issued and shall publish the full text of each proposed Constitutional amendment or other question in accordance with the constitution of New Mexico.

FISCAL IMPLICATIONS

Although the county clerk includes the proposed amendments in his/her proclamation, it is the responsibility of the State to pay for the costs associated with the publication per Section 1-16-11 NMSA 1978. The approximate cost per constitutional amendment is \$104,000.

The fiscal impact of making health care a fundamental right is likely to be large, with both significant costs and benefits to society as a whole.

The PRC states that this amendment appears to shift to state government all costs of health care that are not borne by federal programs.

SIGNIFICANT LEGAL ISSUES

New Mexico has one of the highest percentages of population without health insurance. The US Census Bureau estimates that only 78.3% of New Mexicans were covered by some type of insurance coverage in 2009 leaving 21.7% lacking either public or private health insurance.

Others have estimated a higher rate of people without health insurance. According to research conducted by the North Carolina Institute of Medicine, the uninsured rate for New Mexico increased by 10% during the period 2007 – 2009, resulting in 26% of the state's population residing in the uninsured category

As indicated in the National Healthcare Disparities Report (AHRQ) the lack of health insurance constitutes a major barrier to accessing health care

The AGO stated the following:

Many of the fundamental constitutional 'rights' we have are actually cast as prohibitions on government power. The United States Bill of Rights uses language such as ; "congress shall pass no law", "shall not be infringed", "but in a manner to be prescribed by law" and "shall not be violated."

The proposed language amending the state constitution is cast as an affirmative. The state 'shall ensure'. This is similar to the New Mexico constitutional right to public education, in Art. XII, Sec. 1, which provides that, "A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained."

Both the right to a free public education, and the proposed constitutional right to quality health care, may be considered fundamental legal rights that impose large fiscal obligations on the state, which could be described as 'unfunded mandates'.

ADMINISTRATIVE IMPLICATIONS

The AGO notes that the proposed amendment does not address what part of the state government will be responsible for implementing the provisions in the joint resolution.

OTHER SUBSTANTIVE ISSUES

HSD provided the following:

HSD estimates that there are about 60,000+ persons in New Mexico who are currently eligible for Medicaid but not enrolled. Most of these are children. Passage of SJR5 and subsequent passage of the constitutional amendment by New Mexico voters could have a substantial fiscal impact on Medicaid if Medicaid-eligible individuals are inspired by the amendment to apply to Medicaid, or if, when they seek treatment these individuals are subsequently enrolled in Medicaid. While not an expansion *per se*, since the individuals are already eligible, Medicaid enrollment would increase rapidly and program costs would increase. In addition, under this SJR, all Medicaid enrollees would be entitled to yet-to-be determined medical services to be included in the referenced “comprehensive system of quality health care.” It is not clear if these benefits would be an expansion of the benefits Medicaid now provides. If they were to be an expansion, Medicaid expenditures would increase.

HSD’s Medical Assistance Division (MAD), as the State Medicaid Agency, would be a major participant in any endeavor to bring the proposed amendment to fruition. However, determining what would be required to ensure realization of this amendment, if adopted, is a vision so full of unknowns that no answers can be provided at this time. Additionally, the upcoming implementation of the federal Affordable Care Act’s final pieces in 2014 may change, and perhaps mitigate, any work that HSD and other state health-related agencies would need to do to meet the vision set forth by the proposed amendment.

POSSIBLE QUESTIONS

1. Do we know how much is spent on medical care in New Mexico? Including Medicaid, Medicare, Indian Health Service, Veterans’ Clinics, federal employees, state and local governments, etc.

DW/mew:bym