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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/23/23

SPONSOR Stefanics/Thomson

BILL
NUMBER Senate Bill 16

SHORT TITLE Create Health Care Authority Department

ANALYST Esquibel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
GSD transfer of Employee Group Benefits contracts		\$24,600.0		\$24,600.0	Nonrecurring	Other Revenues
GSD transfer of Employee Group Benefits claims costs		\$423,800.0		\$423,800.0	Nonrecurring	Other Revenue
Reduction of GSD staff		\$1,500.0		\$1,500.0	Nonrecurring	General Fund
DOH transfer of Developmental Disabilities Program			\$203,680.6	\$203,680.6	Nonrecurring	General Fund, Other Transfers, Other Revenue
DOH transfer of Health Certification, Licensing, & Oversight Program			\$20,004.1	\$20,004.1	Nonrecurring	General Fund, Other Transfers, Federal Funds, Other Revenue
Website updates, letterhead, document revisions, contract revisions, marketing changes, etc, across multiple departments		Indeterminate but substantial	Indeterminate but substantial	Indeterminate but substantial	Nonrecurring	General Fund
HSD transfer costs		Indeterminate but substantial	Indeterminate but substantial	Indeterminate but substantial	Nonrecurring	General Fund, Federal Funds
Total		\$449,900.0	\$223,684.7	\$673,584.7	Nonrecurring	General Fund, Federal Funds, Other Transfers, Other Revenue

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Attorney General's Office (NMAG)
Children, Youth and Families Department (CYFD)
Department of Health (DOH)
General Services Department (GSD)
Human Services Department (HSD)

SUMMARY

Synopsis of Senate Bill 16

Senate Bill 16 (SB16) proposes to amend the Human Services Act, Sections 9-8-1 to 9-8-14 NMSA 1978 to rename the Human Services Department (HSD) as the Health Care Authority Department (HCAD). Beginning July 1, 2023, all statutory references to HSD will be considered references to the HCAD.

The bill proposes the governor be given authority to issue an executive order to further delineate the organizational structure, power, and duties of HCAD and move divisions and programs to or from other departments. The bill would require DFA, HCAD, DOH, GSD, the governor's staff, and other persons assigned by the governor to develop a transition plan and proposed statutory changes.

SB16 also requires the governor to report reorganizational changes and recommend statutory changes to the Legislative Health and Human Services Committee and the Legislative Finance Committee by November 1, 2023, and provide a final reorganization report to the Legislature by January 1, 2024.

In addition, among other changes, SB16 calls for the following two additional agencies to be administratively attached to the proposed HCAD—the Group Benefits Committee (currently at the General Services Department) and the New Mexico Health Policy Commission (not operating currently, but administratively attached to the Department of Finance and Administration). The bill also adds four new divisions to the proposed HCAD—an office of the secretary, the developmental disabilities division (currently at Department of Health), the health improvement division (currently at the Department of Health), and the state health benefits division (currently at the General Services Department).

The bill would also remove the current bonding requirement for the secretary, directors, and other employees and officers of the department. SB16 would also transfer all of HSD's contractual obligations, and all of HSD's existing rules, to the proposed HCAD. SB16 would repeal Sections 9-8-13 and 9-8-14 as well as Laws 2019, Chapter 211, Section 1. The bill makes several grammatical and other minor clean up changes to the act.

FISCAL IMPLICATIONS

The General Services Department reports the bill proposes the transfer of the Employee Group Benefits Program, its functions, and its related funds accounts from the General Services Department (GSD) to the proposed HCAD. The Employee Group Benefits Program manages the employee benefits fund (i.e., group self-insurance fund for state employees and local public employees), and the life insurance fund through the Risk Management Division's (RMD) finance bureau. The proposed transfer of the Employee Group Benefits Program would presumably entail also transferring the financial staff. These financial staff transfers would reduce the GSD FTE count and budget by potentially transferring seven classified positions from the GSD/RMD operating budget to the proposed HCAD. Transferring the Employee Group Benefits Program from GSD would reduce the FY24 GSD budget by approximately \$24.6 million in contracts and \$423.8 million in claims costs. The bill would reduce GSD FTE costs to the RMD operating fund by approximately \$1.5 million in personnel and benefits.

The Developmental Disabilities Program of the Department of Health is contemplated for transfer to the proposed HCAD under the provisions of the bill. The DD Program has a total FY24 budget of \$203.7 million and 196 FTE.

The Health Certification, Licensing and Oversight Program (DHI) of the Department of Health is contemplated for transfer to the proposed HCAD under the provisions of the bill. DHI has a total FY24 budget of \$20 million and 202 FTE.

The Department of Health (DOH) reports under the provisions of the bill all DOH-DHI branding, forms, letterheads, on-line information, websites, and other official documents would need to be replaced with new Health Care Authority branding. This would require an update to all branding and web-based materials, letterhead, forms documents and websites for DHI. SB16 would require conducting new research and operational studies for DHI which are currently required by statute for HSD for the provision of courses and instruction in the training of the administration of programs with the objective of improving the operations and efficiency of administration.

All involved agencies would similarly require updates to documents, websites, letterhead, rebranding, potential moving and rent costs, all with an indeterminate but substantial cost.

HSD reports it is likely that SB16 would result in increased administrative costs to HSD, and HSD reports the costs would be indeterminate but substantial.

SIGNIFICANT ISSUES

The Human Services Department reports the logistics and operational details of transitioning and transferring divisions (personnel, money, equipment, contracts, IT resources, etc.) to the HCAD would be significant and require substantial analysis and planning prior to execution. Because of the current structure in which certain divisions (such as DDS and DHI) reside within DOH, it is likely that federal engagement, notification and approval may be required prior to transitioning those divisions to the new agency.

An assessment would need to be completed for all current New Mexico Administrative Code

(NMAC) regulations that currently are under the authority of other agencies (DOH and GSD specifically) to determine whether and how these regulations would be moved to HCAD.

The Department of Health reports financial mechanisms would need to be in place to transfer the entire budget of the DOH programs. Communication with the Department of Finance and Administration, the Department of Information and Technology, and the State Personnel Office would need to be conducted to transfer the programs, budget, IT, FTE, contracts, equipment, and administrative and programmatic functions to the proposed Health Care Authority Department, with the priority of avoiding any disruption to services for the citizens of New Mexico.

PERFORMANCE IMPLICATIONS

Multiple performance monitoring mechanisms and performance reporting functions across several departments would have to be consolidated and transferred under the provisions of the bill to ensure the proposed changes are resulting in positive health outcomes for New Mexicans.

HSD notes SB16 would require extensive planning and analysis to achieve successful transitions of divisions to the new department and there would be significant workload associated with transferring divisions. Both DOH and HSD note positive implications for consolidating administration of Medicaid programs.

ADMINISTRATIVE IMPLICATIONS

The General Services Department (GSD) reports the provisions of the bill would require numerous administrative changes. GSD currently maintains an invoicing system that tracks and distributes invoices for Local Public Body entities enrolled in the GSD Risk Management Division Health Benefits Plan. If transferred, the balances and billing functionality for medical, life, and COBRA coverage would need to be transferred via Easi.Gov from Sun Systems to the HCAD. Also, current Interagency Benefits Advisory Committee (IBAC) RFP assignments would need to be redirected to HCAD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB16 would transfer the Division of Health Improvement (DHI) from the Department of Health (DOH) to the newly created Health Care Authority Department. The move would place DHI in the same department as Medicaid. DHI oversees the licensure of hospitals and long-term care facilities and oversees the enforcement of developmental disability Medicaid providers. DOH notes if SB16 is passed, DHI regulations would need to be revised and updated, and/or repealed and replaced, to reflect the new Health Care Authority Department. Also, the consolidation of these overlapping roles and functions could potentially pose a conflict.

TECHNICAL ISSUES

The Attorney General's Office notes the New Mexico Health Policy Commission (HPC) is currently administratively attached to the Department of Finance and Administration pursuant to Section 9-7-11.2 NMSA 1978 (2005); hence, this provision may also need to be amended by SB16 to reflect HPC would be administratively attached to the proposed HCAD.

The General Services Department notes the Interagency Pharmaceuticals Purchasing Council (IPPC) is administratively attached to GSD pursuant to Section 9-17-9 NMSA 1978 to review and seek cost savings in pharmaceutical and pharmacy benefits. Given the apparent intention of the bill to concentrate health related functions in HCAD, it may be appropriate to transfer IPPC to HCAD which would require statutory change.

GSD reports one exempt position related to the Interagency Pharmaceuticals Purchasing Council (IPPC) would also likely transfer to the HCAD. This position is currently funded out of the GSD Office of the Secretary and is not considered in the bill.

HSD notes the following issues:

- Section 4, B: BHSD is not currently under the purview of the DOH.
- Section 8, A: Should state “Contract for behavioral health services to include: mental health, substance use disorder treatment, prevention and recovery services.
- Section 8, C: Should read “substance use disorder services”
- Section 8, D: Should mention “Child, Adolescent, and Adult mental health and substance use disorder services with CYFD.
- Section 8, E: Should read “Incarcerated and coordinate continuation of care immediately upon release.”
- Section 11 is a duplicate of Section 10.

The Hospital Inpatient Discharge Database (HIDD) formerly operated by the Health Policy Commission is now administered and operated by DOH’s Epidemiology and Response Program and FTE within that program. The bill does not amend the statutory citations associated with this database nor consider this current contracts and the associated FTE.

The Geographic Access Database System (GADS) formerly operated by the Health Policy Commission is now administered and operated by DOH’s Epidemiology and Response Program and FTE within that program. The bill does not amend the statutory citations associated with this database nor consider this current contracts and the associated FTE.

The Department of Health is responsible for funding the All Payers Claims Database (APCD). The bill does not address APCD, its funding, and the associated FTE and contracts.

The Medicaid Management Information System (MMISR) funded at over \$200 million includes funding and associated FTE from the Aging and Long-Term Services Department, Department of Health, Children, Youth and Families Department, Early Childhood Education and Care Department, and Corrections Department. The bill does not address the MMISR system nor the associated FTE, contracts, and funding.

The bill does not address the role of an independent Office of Inspector General under the proposed HCAD.

OTHER SUBSTANTIVE ISSUES

HSD reports it would need to assess how many additional staff and the amount of funding that would be required to support and administer the new agency. There are significant administrative

implications associated with transferring divisions to HCAD in terms of personnel, equipment, contracts, funding, and technology. There would also be administrative implications associated with rebranding the agency, making sure it is accurately named in all regulations, state plans, contracts, and marketing/communications materials.

Renaming HSD as HCAD will require regulatory, contract, legal, and federal updates across all of the agency's existing divisions. Direction about how to do this and what processes may be simplified would need to be sought from state and federal partners.

As it relates to the HSD Administrative Services Division (ASD), an assessment will need to be completed to determine how many additional staff ASD would need to provide the necessary support to the new Divisions that would be added to HCAD. ASD would need to update all warrant stock to issue warrants and business envelopes to mail out all required notices and correspondences. The bill does not indicate how many additional staff would be merging with HCAD from the other departments, so an analysis would need to be performed to ensure HCAD has adequate workspace for all employees. HCAD may have to issue an RFP for additional workspaces. HCAD also would need to update the Public Assistance Cost Allocation Plan, which will need to be submitted and approved by the U.S. Department of Health and Human Services. The creation of HCAD will also increase the audit scope for yearly external audits and budget. An assessment will need to be completed to determine any additional areas of concern or fiscal and administrative impacts.

In addition, the change will also require updates to all customer-facing notices, forms and applications for HSD benefits and services. These changes will require changes to the ASPEN IT system to update the notices and renewal forms sent to customers. Approximately 400 reports in ASPEN would need to be updated.

Workstations, servers, and all software applications and databases used in DDS and DHI would need to be migrated to HCAD managed infrastructure. There are 28 distinct software applications used by DDS/DHI, many of which are built on legacy technology. The systems and software in use by the State Health Benefits Division in the General Services Department are not clear. The operating systems, custom databases, commercial off the shelf software (COTS), and all associated licenses and support functions would also need to be moved to and managed by HCAD Information Technology staff; this would require additional IT development, administration, and support positions to be created, recruited, hired, and retained.

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