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### **FISCAL IMPACT REPORT**

SPONSOR:	Lopez	DATE TYPED:	2/5/00	HB	
SHORT TITLE:	Protect Value of Charitable Assets			SB	SJM 43
				ANALYST:	Valdes

### **APPROPRIATION**

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
				Unknown	

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to NA

### **SOURCES OF INFORMATION**

Attorney General

New Mexico Health Policy Commission

## **SUMMARY**

### Synopsis of Bill

This memorial requests the Attorney General, Department of Health, the Human Services Department and the New Mexico Health Policy Commission to work cooperatively to preserve health care services and the charitable assets of nonprofit hospitals proposing to convert to "for- profit" status.

### Significant Issues

This memorial resolves that charitable assets of nonprofit hospitals be distributed to other non- profit entities that meet health care needs of New Mexicans. Additionally, it resolves that the public affected by the conversion be provided opportunities for public input and the right to inspect information on the proposed conversion.

## **FISCAL IMPLICATIONS**

The fiscal impact would depend on the number of hospitals converting annually and the extent of the work each agency would be responsible for undertaking. Fiscal impact is unknown at this time.

## **ADMINISTRATIVE IMPLICATIONS**

Agencies identified in the memorial would be required to work cooperatively in the review of hospital conversions. The administrative impact would depend on the number of hospital conversions occurring in the state and the role of agencies participating in the conversion oversight.

## **CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP**

The Charitable Solicitation Act authorizes the Attorney General to ensure that charitable entities act in the public interest and authorizes the Attorney General to investigate and to examine the affairs of the charitable entity. According to the Attorney General, in the context of a nonprofit hospital conversion, the public interest means that the integrity of the charitable assets is respected and that access to quality health care services are maintained or enhanced.

## **OTHER SUBSTANTIVE ISSUES**

The following issues were identified by the New Mexico Health Policy Commission:

- In the past decade many nonprofit hospitals have converted to for-profit status. The growth in managed care, emphasis on cost containment, shift in use of outpatient services for procedures and treatment previously conducted as an inpatient and cost of high technology equipment have placed financial stress on many hospitals, particularly free-standing, non-affiliated hospitals are facing new financial burdens. Sale may mean survival for the hospital and the infusion of financing for facility improvement.
- Concerns regarding the sale and conversion of hospitals and other health care facilities such as HMOs, particularly regarding the preservation of charitable assets and the impact of the transaction on the public have prompted new legislation in many states.
- Some legislation enacted in other states requires oversight and approval by both the attorney general and the department of health. Other states have given the authority to the attorney general only.
- This memorial does not provide any formal regulatory authority beyond what currently exists in statutes. Currently the Department of Health has licensure powers for hospitals, but does not have the ability to withhold licensure based on the ability of a non-profit converting to for-profit status. The Human Services Department and the Health Policy Commission are equipped to provide data but have no regulatory powers related to hospital sales. The authority of the Attorney General may be constrained and unclear due to the absence of specific hospital conversion legislation.
- Currently there are 17 for-profit hospitals in New Mexico, 8 general and 9 specialty.
- A recent national study in *Health Affairs* shows that on average, for-profit hospital conversions had little effect on the provision of charity health care and other community benefits. Federal law requires provision of emergency services and care regardless of ability to pay and the relative isolation of all hospitals outside the Albuquerque area, will curtail the ability of for-profit hospitals to limit charity care.

MFV/gm