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FISCAL IMPACT REPORT

ORIGINAL DATE
SPONSOR Jennings **LAST UPDATED** 8/16/08 **HB** _____

SHORT TITLE Health Care Benefits Act **SB** 19

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
None	None		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	(\$4,600)	(\$9,500)	Recurring	General Fund
	\$4,600	\$9,500	Recurring	Healthy New Mexico Fund

(Parenthesis () Indicate Revenue Decreases)

Companion to Senate Bill 22 and House Bill 5

SOURCES OF INFORMATION

LFC Files
 Human Services Department (HSD)
 Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 19 enacts a new law titled the "Health Care Benefits Act."

Creates the Health Care Benefits Administration (HCBA) (Section 3)

- Establishes an 11-member board, with appointments as follows;
 - 3 members by the Governor, with specified expertise
 - 5 members by the Legislative Council Service, one from each of the five PRC

- districts, with specified expertise
- Secretary of Health (shall not serve as chair)
- Secretary of HSD (shall not serve as chair)
- Superintendent of Insurance (shall not serve as chair)
- The HCBA shall not promulgate rules unless given that power by the Legislature
- Provides for the creation of six advisory councils to the HCBA
- Executive Director appointed by the Governor, through June 30, 2013, and subject to confirmation of the Senate. Qualifications of the director are specified (Sections 4 and 5).

Administrative Consolidation

- Consolidates administrative functions of the following public health coverage programs:
 - a. January 1, 2009 – NM Health Policy Commission (HPC)
 - b. July 1, 2009 – State Employees & Local Public Bodies (GSD/Group Benefits Bureau); NM Public School Insurance Authority (NMPSIA), excluding risk program; and Albuquerque Public Schools (APS)
 - c. July 1, 2010 – Retiree Health Care Authority (RHCA); Health Insurance Alliance (HIA); and HSD Premium Assistance Programs for Kids and Maternity (PAK/PAM)

Powers and Duties (Section 6)

- Administer and manage health plans, benefits, program services products for the provision of coverage for small employers and public employees and retirees, within available resources
- By July 1, 2009, develop and present to the governor and legislature proposed guidelines for
 - Health plans, benefits or services that may constitute health coverage for any requirement to show proof of coverage (see companion bill)
 - Affordability of health coverage
 - A comprehensive health services plan
- By July 1, 2011 report to the governor and legislature on whether and, if recommended, how to consolidate actuarial pools, and reports on, among others:
 - the feasibility of:
 - HCBA assuming oversight of Medicaid programs
 - HCBA assuming oversight of the NM Medical Insurance Pool
 - Allowing non-state employees to buy into the state plan
 - Increasing health coverage
 - How to control health care costs
 - Data gathering and reporting requirements
 - Portability of health coverage
 - Performance standards of health insurers
- Evaluate HCBA in 3-5 years in consultation with HSD, Public Regulation Commission (PRC) and the Department of Health (DOH)
- Require data reporting to HCBA by health insurers

Healthy New Mexico Fund (Section 9)

- Establishes a healthy New Mexico fund consisting of money appropriated to the fund, employee's contributions, insurance or reinsurance proceeds and other funds, including refunds from health insurers, all of which "are appropriated to and for the purposes of the fund." Subject to appropriation by the Legislature, money in the fund will be used to fund outreach and pay for health care premiums through publicly authorized programs.

- Creates a new distribution of the insurance premium tax which currently goes to the fire protection fund, the insurance operations fund and the general fund. All growth above CY09 insurance premium tax collections from health insurance premiums will be deposited in the Healthy New Mexico Fund.

FISCAL IMPLICATIONS

The bill establishes a healthy New Mexico fund for outreach activities and to pay for health care premiums or services through publicly authorized programs to expand coverage. The fund will consist of certain balance transfers from the insurance department suspense fund; and amounts received from a health insurer for direct services provided at a rate less than 85% of premiums received. The fund will also consist of employee's contributions, insurance or reinsurance proceeds and other funds, including refunds from health insurers.

This bill creates a new 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.

Section 14 will require the amount of revenue from insurance premiums taxes in excess of the amount collected in calendar year 2009, which would otherwise go to the General Fund, to be deposited into the new Healthy New Mexico Fund beginning July 1, 2010. The estimate in the revenue table above is based on the forecast by the Consensus Revenue Estimating Group of the amount of revenue from insurance premiums taxes and related revenues.

SIGNIFICANT ISSUES

The bill provides for administrative consolidation of these public programs, but leaves funding streams and/or benefit pools in place. The Public School Insurance Authority (PSIA) pool is split into a risk pool and health benefits pool. HCBA would have authority over the health benefits pool.

The consolidation plan in this bill is similar to that proposed in the 2008 regular session, although with slightly different time frame and with fewer agencies. The following is from the FIR of the 2008 session:

The bill will require the Albuquerque Public Schools (APS) health care self-insurance functions to be folded into the new authority. The State's largest school district operates as a self-insured government entity. APS states it is unclear how the bill will transfer administration of health care benefits from APS to the new authority. APS only recently created an internal service fund to deposit employer/employee contributions and make health care expenditures. A recent LFC program evaluation estimated that APS employer/employee contributions exceeded health care expenditures which should have created a balance to apply to future premiums or be returned to the sources of revenue, but were not. As a result of these issues, establishing an accurate beginning balance for APS health care may prove difficult.

In previous analyses, PSIA, NMRHCA and APS have stressed the importance of requesting a comprehensive analysis of the short and long term objectives of any proposal for consolidation. PSIA has also in the past noted concerns relating to board representation; and, that advocacy for educational employees not be lost in the diverse makeup of any board.

On August 15, 2008, the APS Board of Education passed a special resolution reaffirming its opposition to any legislation that “reduces our insurance benefits; raises the cost of our insurance; eliminate the participation of the Albuquerque Public Schools Board of Education in the oversight of our insurance and benefit plans.”

PERFORMANCE IMPLICATIONS

The bill creates the “health care benefits administration” as an adjunct agency under Section 9-1-6 NMSA 1978 which states "Adjunct agencies are those agencies...of the executive branch...which are excluded from any direct or administrative attachment to a department, which retain policymaking and administrative autonomy separate from any other instrumentality of state government”.

ADMINISTRATIVE IMPLICATIONS

The bill proposes to allow HCBA to absorb the Health Policy Commission which was established by statute (9-7-11.2) in 1991 to provide independent research, guidance, and recommendations on health policy issues that impact the planning of health care and health systems for New Mexico.

According to HSD, by combining the administrative components of several public programs, the bill would reduce administrative costs, reduce bureaucratic duplication, and provide improved administration of public health coverage programs. The agencies’ assets would be consolidated under the HCBA.

TECHNICAL ISSUES

Section 6 (J) of the bill would require the HCBA to report quarterly to the governor, legislature and public on performance measures. Consideration should be given to requiring this reporting pursuant to the Accountability in Government Act [Section 6-3A-1 through 6-3A-9 NMSA 1978], which establishes the quarterly performance reporting process for state agencies.

ALTERNATIVES

It may be difficult to satisfy the conditions of the legislative board appointments. The bill calls for one from each PRC district as well as other experience parameters. The use of PRC districts is to get geographic diversity which may be achieved using the three congressional districts or requiring that each PRC district is represented by at least one board member regardless of who appoints.

The appointment of the five board members from the NM legislative council functionally means that each chamber appoints two and the fifth has to be agreed upon. It may be more expeditious to add a member so each chamber appoints three and making the superintendent of insurance a tie-breaking voting member only.

An alternative to the creation of the health New Mexico fund may be to appropriate from the general fund to HCBA. This would maintain the legislative ability to establish priorities in funding state government services.