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FISCAL IMPACT REPORT

ORIGINAL DATE 01/23/11

SPONSOR Cisneros & Gonzales LAST UPDATED _____ HB _____

SHORT TITLE Health Security Act SB 5

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	\$500.00	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Health Policy Commission (HPC)

Department of Health (DOH)

Human Services Department (HSD)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Bill 5, introduced for The Legislative Health and Human Services Committee, enacts the health security act (act) to provide a statewide health care plan through a combination of public and private financing, control of health care costs, and preventative health care. The act establishes a 15 member health care commission (commission) by November 1, 2012 tasked with establishing the entity for the act. Financing options for the entity will be developed by the Legislative Finance Committee (LFC) working with the Superintendent of Insurance by December 15, 2011 for consideration by the 50th legislature. The bill appropriates \$500 thousand to the LFC in FY12 to begin this effort.

Specific provisions of the bill:

1. Identify 15 members of the commission, provide for its employees;
2. Develop a five year plan to develop the state's health care system that is expected to:
 - emphasize health care for underserved areas and alternatives to institutional care;
 - negotiate compensation methods for health care providers and 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 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 care;
 - report annually to the legislature; and,
 - if so approved by the legislature, begin implementation July 1, 2014.
3. Grants 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 recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of FY12 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, 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 fund to receive 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 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.

HSD notes that the bill infers that to maximize a federal match, the act would screen candidates for Medicaid eligibility which could equate to an increase in Medicaid enrollment and further state subsidy in order to gain the federal match.

The bill requires the LFC to develop financing recommendations for the plan and provide such to the legislature for approval or modification before 12/15/11. The LFC is to be guided by benefit packages and cost of 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. LFC will be required to seek partnerships among state agencies and private nonprofit persons to identify and apply for available grant funding and other in-kind and financial resources for its study of financing options. 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 to complete this great task.

The bill provides that any amounts received from grants or other financial resources shall first be used to offset any state funds that the legislature appropriates or allocates. Any grant funds or other financial resources received in excess of legislative appropriations will be used for the study of financing options for the health security plan. It remains unclear if financial resources received beyond that required for study or implementing the health plan would ever revert to the GF.

Beginning in FY14 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.

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.

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 waivers are actually approved, the commission may be unable to put into place the programs and services requiring such waivers which will 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.

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.

The bill will require higher education institutions to assess students for health insurance through fees. This may increase higher education costs if New Mexico resident students are covered by their parents' policy. Nonresident students may opt out of the fees if they can show proof of out-of-state coverage.

PERFORMANCE IMPLICATIONS

It is unknown how the bill may conflict with the federal Patient Protection and Affordable Care Act (PPACA) of 2010.

ADMINISTRATIVE IMPLICATIONS

The bill charges DOH with the responsibility of providing staff to the committee membership nominating committee, until a commission is appointed.

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

OTHER SUBSTANTIVE ISSUES

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

ALTERNATIVES

HSD maintains that the State has initiated activities pursuant to the PPACA that may lead to affordable health insurance for most New Mexicans.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

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

AHO/bym/mew