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FISCAL IMPACT REPORT

SPONSOR	SCORC	ORIGINAL DATE	03/01/11	HB
		LAST UPDATED	03/15/11	
SHORT TITLE	Enact "New Mexico Health Insurance Exchange Act"	SB	CS/38 & 370/aSFC/ aHCPAC	
		ANALYST	Esquibel	

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

SB CS/38 & 370/aSFC/aHCPAC relates to:

- HB33/HCPACS/HHGACS/aHFL
- HB245 (Health Insurance Purchasing Cooperative),
- HB246 (Amend Health Insurance Alliance Act),
- HB257 (LFC Perform FIR on Health Care Reform Designs),
- HB323 ("Interstate Health Care Freedom Compact"),
- HB584 (NM Health Benefit Exchange Act)
- SB5 (Health Security Act),
- SB89 (Private Health Insurance Purchasing Co-Op Act),
- SB90 (Health Insurance Access for Large Employers),
- SB208 (Health Insurance Rate Increase Review),
- SB227 (Benchmark Usual & Customary Rates),
- SB386 (LFC to Conduct FIRs on Health Care Designs),
- SJR5 (State Health Care System, CA).

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)
 Department of Health (DOH)
 Health Policy Commission (HPC)
 Public Regulation Commission (PRC)
 Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of HCPAC Amendments

The House Consumer and Public Affairs Committee amendments to the Senate Corporations and Transportation Committee Substitute for Senate Bill 38 as amended by the Senate Public Affairs and Senate Finance Committees, do the following:

- Hold the board of directors of the newly created Health Insurance Exchange responsible for not only drafting a plan of operation, but also for conducting a public hearing prior to finalizing and approving the plan.
- Require that the plan of operation to implement the New Mexico Health Insurance Exchange Act be consistent with state law, the PPACA, and approved waivers to the PPACA.
- Remove the plan of operation requirements for a navigator program and a quality rating system for qualified health plans.
- Extend the date by which a report of findings and recommendations are due to the Legislative Finance Committee and Superintendent on how to avoid adverse selection from January 1, 2012 to January 1, 2013.
- Require the Superintendent to promulgate rules implementing an Exchange, rather than adopting others' rules.

Synopsis of SFC Amendments

The Senate Finance Committee amendments to the Senate Corporations and Transportation Committee Substitute for Senate Bill 38 as amended by the Senate Public Affairs Committee and Senate Bill 370 as amended by the Senate Public Affairs Committee provide for the following:

- Remove language indicating the Exchange will provide for qualified health plan certification;
- Correct the title of the federal Patient Protection and Affordable Care Act;
- Add new subsections regarding tribal consultation, cultural competency, and creation of a Native American liaison within the Exchange; and
- Specify the Exchange will report to the LFC, LHHS and Superintendent of Insurance regarding avoiding adverse selection and how to assess and improve the quality and affordability of qualified health plans offered by the Exchange.

Synopsis of Original Bill

The Senate Corporations and Transportation Committee Substitute for Senate Bill 38 as amended by the Senate Public Affairs Committee and Senate Bill 370 as amended by the Senate Public Affairs Committee provides for the following:

- Create the New Mexico Health Insurance Exchange;
- Provide for the appointment, powers and duties of an 11 member Board of Directors of the New Mexico Health Insurance Exchange;

- Provide the Superintendent of Insurance with rulemaking powers relating to the Exchange;
- Provide for powers and duties of the Exchange;
- Provide for qualified health plan certification;
- Provide for transparency of Exchange funding and operations;
- Amend and enact sections of NMSA 1978; and
- Reconcile multiple amendments to the same section of law in laws 2009.

The bill contains an emergency clause such that the New Mexico Health Insurance Exchange Act becomes effective immediately.

FISCAL IMPLICATIONS

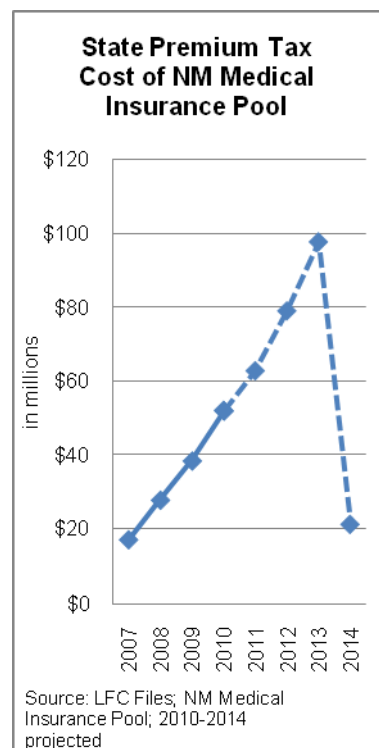
SB 38 & 370/SCORCS/aSFC would authorize the Board of Directors of the New Mexico Health Insurance Exchange to seek and receive grant funding from federal, state or local governments or private philanthropic organizations to defray the costs of operating the Exchange. The bill would further authorize the Board to generate funding, including but not limited to, charging assessments or fees, to support its operations in accordance with provisions of the New Mexico Health Insurance Exchange Act.

SB 38 & 370/SCORCS/aSFC provides that in order to fund the planning, implementation and operation of the Exchange, the Board shall contract with the Human Services Department or any other state agency that receives funds allocated, appropriated or granted to the state for purposes of funding the planning, implementation or operation of a health insurance exchange.

SB 38 & 370/SCORCS/aSFC would exempt the Exchange from payment of all fees and all taxes levied by the state or any of its political subdivisions.

SB 38 & 370/SCORCS/aSFC provides that, until the date is reached upon which federal law requires it to be self-sustaining, resources of the New Mexico Health Insurance Exchange may be provided by the New Mexico Health Insurance Alliance (NMHIA) or the New Mexico Medical Insurance Pool (NMMIP) through a cooperative agreement. The bill authorizes NMHIA and NMMIP to fund reasonably required staff and other operating expenses for the New Mexico Health Insurance Exchange through their respective existing funding mechanisms. SB 38 & 370/SCORCS would require, to the extent federal funding is available, the Exchange to reimburse NMHIA and NMMIP for any resources they may provide.

SB 38 & 370/SCORCS/aSFC is silent on the disposition of the premium tax credits for insurers based on the current assessments levied by the NM Medical Insurance Pool and the Health Insurance Alliance. The repeal of these tax credits would have a significant positive impact on the general fund. Similarly, a decline in the assessments, once guaranteed issue is in force and the Exchange is in place, will also increase general fund revenue.



SB 38 & 370/SCORCS/aSFC provides that to the extent federal funding is available to the Exchange, the Exchange shall reimburse the New Mexico Health Insurance Alliance and the New Mexico Medical Insurance Pool, respectively, for such staff and other resources each agency may provide the Exchange. It is unclear how this reimbursement provision will be financially transacted, monitored and audited. Additionally, this provision could have a negative impact on the general fund if assessments and tax credits are increased commensurate with increased utilization of staff and other resources of the NMMIP and NMHIA.

In 2013, NMMIP programs are estimated to “cost” the state general fund almost \$100 million due to a provision that reduces premium taxes for insurers. When NMMIP’s clients become eligible to purchase insurance through the Exchange in 2014, its programs will be obsolete. In 2014, the state should realize a significant increase in premium tax revenue. The Legislature likely will have to take action to eliminate the NMMIP or alter its function and repeal the premium tax credits for the NMMIP assessment.

Although not estimated here, new premium tax revenue from purchases on the Exchange will increase revenue to the general fund.

The federal Patient Protection and Affordable Care Act of 2010 authorizes State Planning and Establishment Grants to help states establish Health Insurance Exchanges, and requires that State Exchanges to be self-sustaining. States are required to demonstrate they are capable of running an Exchange by January 1, 2013.

On July 29, 2010, the Department of Health and Human Services (DHHS) issued a grant solicitation publicizing the availability of the first round of funding for the State Planning and Establishment Grants for Exchanges. These grants were up to \$1 million for each State and the District of Columbia. These grants are intended to give states the resources to conduct the research and planning needed to build a better health insurance marketplace and determine how their Exchanges will be operated and governed.

The State of New Mexico has been awarded the \$1,000,000 Planning and Establishment Grant and work is already underway to conduct the necessary market research and planning. The Grant is being used to:

- Develop a fiscal, actuarial and population tool based on the current environment that can provide ongoing information as adjustments are made to reflect policy decisions related to the Exchange(s).
- Assess current information technology (IT) systems and determine any Exchange IT needs;
- Gather data regarding New Mexico’s current health insurance market;
- Gather input from off-reservation leaders, providers and consumers to guide the Exchange planning process.

It is anticipated that in Spring 2011 an additional grant solicitation will be released by the U.S. DHHS for Exchange implementation funds. The amount and exact timing of this grant is unknown at this time.

IT Impact. A health insurance exchange system to support transaction tasks would be required to meet a variety of service requirements to enable processing of enrollments. This includes determining eligibility, calculating quotes, processing enrollments and payments, and communicating enrollments to carriers. It also includes exchange administration of the activities to include website, benefit, premium collection, carrier payment, and enrollment administration. This would function across multiple computer systems at state, federal, and carrier levels.

Currently, HSD outsources certain IT aspects of Medicaid operations. These include approximately 60% health claims payment functions and the balance for member tracking, website, eligibility, etc. The current costs related to this system are split 55% for Information Technology and 45% for Operations. Based on these splits at \$12 million per year, or \$1 million per month, the cost of the exchange could be estimated at \$400,000 per month, or \$4.8 million per year for an outsourced contractor.

The cost for a new Medicaid system averages \$58 million dollars (based on a recent Medical Assistance Review of a sampling of states). Consistent with the above portions, a start up Health Insurance Exchange system may cost approximately \$24 million (40% of the build costs of a \$58 million Medicaid type system).

Other states costs range from \$600,000 for a limited system in Utah to \$25 million in Massachusetts. Overall, it is reported that states will spend \$595 million for health exchanges which nets out to an average \$12 million per state.

In summary, while estimates are that it may cost \$12 million per state for health insurance exchanges, based on a summary comparison of similar operations in HSD, it may cost approximately \$24 million to set up an exchange with an estimated \$400,000 per month operating cost. These costs will also be incurred by the exchange and not have an impact on HSD.

SIGNIFICANT ISSUES

HCPAC's amendments to SB38/370 make the following changes to the bill: (1) the requirements of the plan of operation to be produced by the Exchange Board are made less prescriptive and more general; (2) removes the navigator program and quality rating system from the plan of operation; (3) moves the date by which the Exchange Board is to report to the legislature on specified issues from January 1, 2012 to January 1, 2013; and (4) makes the Superintendent's rulemaking authority more restrictive.

The Health Policy Commission indicates SB 38 & 370/SCORCS would create the New Mexico Health Insurance Exchange as a nonprofit public corporation to provide qualified individuals and qualified employers with increased access to health insurance in the state. The Exchange would be governed by the Board of Directors of the New Mexico Health Insurance Exchange pursuant to the provisions of the New Mexico Health Insurance Exchange Act. The Exchange would be considered a governmental entity only for the purposes of the Tort Claims Act.

The bill would create a Board of Directors of the New Mexico Health Insurance Exchange. The Board would consist of 11 voting members. The Secretary of Human Services, the Secretary of the Human Services Department's successor responsible for the state's Medicaid program or the Secretary's designee would be a voting ex-officio member. The Superintendent of Insurance or the Superintendent's designee would be a nonvoting ex-officio voting member. The Board would be composed to assure representation of the state's Native American population, ethnic diversity, cultural diversity and geographic diversity. Board members would be required to have demonstrated knowledge or experience in certain areas as specified in the bill. The Governor would appoint three members; the Superintendent of Insurance would appoint three members; and members of the Legislature would appoint four members as specified in the bill.

SB 38 & 370/SCORCS would require the Board to submit a Plan of Operation to the Superintendent of Insurance with any provisions to ensure fair, reasonable and equitable administration of the Exchange. The bill would require that the Plan of Operation:

- Establish procedures to implement the provisions of the New Mexico Health Insurance Exchange Act, consistent with state law, the federal Patient Protection and Affordable Care Act (PPACA) and other federal law, including certain procedures as specified in the bill;
- Establish procedures for handling and accounting for the Exchange's assets and money;
- Establish regular times and meeting places for meetings of the Board;
- Establish a program to publicize the existence of the Exchange, the qualified health plans, the eligibility requirements and procedures for enrollment in an approved health plan, Medicaid or other public health coverage program and to maintain public awareness of the Exchange;
- Establish consumer complaint and grievance procedures for issues raised with the Exchange;
- Establish procedures for alternative dispute resolution between the Exchange and contractors or carriers;
- Establish conflict of interest policies and procedures; and
- Contain additional provisions necessary and proper for the execution of the powers and duties of the Board.

After notice and hearing, the Superintendent shall approve the Plan of Operation, provided it is determined to ensure fair, reasonable and equitable administration of the Exchange. The Plan of Operation shall become effective upon the Superintendent's written approval.

The bill would require that the Board:

- By July 1, 2011 and January 1, 2014, provide quarterly reports to the Legislature, the Governor and the Superintendent on the implementation of the Exchange and report annually and upon request thereafter;
- By January 1, 2012, report findings and submit recommendations to the Legislative Health and Human Services Committee, the Legislative Finance Committee and the Superintendent of Insurance on how to avoid adverse selection;
- Provide legislative recommendations to the Legislative Health and Human Services Committee and the Legislative Finance Committee on whether to change the number of full-time-equivalent (FTE) employees in the definition of "small employer" from 50 to 100 before January 1, 2016. The Board would be required to recommend a transition plan for the Exchange and carriers to follow when changing the definition of "small employer", whether the change occurs prior to or on January 1, 2016;
- By July 1, 2013, provide recommendations to the Legislative Finance Committee and other appropriate interim legislative committees on mechanisms for funding the operations of the Exchange and a plan for achieving self-sufficiency, including the use of any assessments or fees;
- By July 1, 2016, provide legislative recommendations to the Legislative Health and Human Services Committee and the Legislative Finance Committee on whether to continue limiting qualified employer status to small employers and, if qualified employer status is extended to large employers, whether to combine the large employer risk pool with the small group market; combine the individual, small group and the large employer

markets into a single risk pool; and enter into an Exchange with other states or share resources or responsibilities to enhance the affordability of operating the Exchange;

- Keep an accurate accounting of all of the activities, receipts and expenditures of the Exchange and submit this information annually to the Superintendent and as required by federal law to the federal Secretary of Health and Human Services;
- Beginning with the first year of operation in which access to health insurance coverage is provided, obtain an annual audit of the Exchange’s operations from an independent certified public accountant;
- Cooperate with the Medical Assistance Division of the Human Services Department, or its successor, to share information and facilitate transitions in enrollment between the Exchange and Medicaid, the State Children’s Health Insurance Program or any other state public health coverage program;
- Publish the administrative costs of the Exchange as required by state or federal law; and
- Discharge those duties required to implement and operate the Exchange in accordance with the provisions of the New Mexico Health Insurance Exchange Act consistent with state and federal law.

SB 38 & 370/SCORCS would require the Medical Assistance Division of the Human Services Department, or its successor, to cooperate with the New Mexico Health Insurance Exchange to share information and facilitate transitions in enrollment between the Exchange and Medicaid, the State Children’s Health Insurance Program or any other state public health coverage program.

The bill would further require the Insurance Division of the Public Regulation Commission, or its successor, to cooperate with the New Mexico Health Insurance Exchange to share information and assist in the implementation of functions of the Exchange.

SB 38 & 370/SCORCS would amend Section 41-4-3 NMSA 1978 (i.e., Tort Claims Act) such that the definition of “public employee” would include the staff and members of the Board of Directors of the New Mexico Health Insurance Exchange.

PERFORMANCE IMPLICATIONS

The Health Policy Commission writes the SB 38 & 370/SCORCS is consistent with the Patient Protection and Affordable Care Act (PPACA), which creates state-based American Health Benefit Exchanges and small business health options program (SHOP) Exchanges, administered by a governmental agency or non-profit organization through which individuals and small businesses with up to 100 employees can purchase qualified coverage. The PPACA permits states to allow businesses with more than 100 employees to purchase coverage in the SHOP Exchange beginning in 2017. States may form regional Exchanges or allow more than one Exchange to operate in a state as long as each Exchange serves as a distinct geographic area. Funding is available to states to establish within one year of enactment and until January 1, 2015.

(Source: Henry J. Kaiser Family Foundation, www.kff.org/healthreform/upload/8061.pdf)

If the state decides to establish its own Exchange, there are certain federally mandated functions of the Exchange under the PPACA, which include:

- Certify whether a health care plan meets the eligibility requirements to participate in the Exchange, based on criteria developed by the U.S. Health and Human Services Department.
- Make eligibility determinations and provide assistance for participation in the Exchange, in catastrophic plans, to obtain premium tax credits and cost-sharing reductions, and to enroll in public programs such as Medicaid or CHIP.
- Gather income and tax information to make affordability determinations.
- Access or keep a database of employers and employees, which is needed to determine which employees drop coverage and to be able to communicate to employers when such an event occurs.
- Charge insurers user fees, or to otherwise generate money, to be a self-funded Exchange by January 1, 2015.
- Publish licensing and regulatory fees.
- Approve and deny premium increases.
- Collect and publish coverage transparency data.
- Provide enrollment periods as specified under PPACA.
- Monitor and enforce quality improvements required by the PPACA.

SB 38 & 370/SCORCS would require the Board of Directors of the New Mexico Health Insurance Exchange to create an advisory committee made up of Native Americans, some of whom live on a reservation and some of whom do not live on a reservation, to guide the implementation of the Native-American-specific provisions of the federal Patient Protection and Affordable Care Act and the federal Indian Health Care Improvement Act.

The PPACA includes certain provisions specific to the Native American population in relation to the Exchange as follows:

- For Native Americans with a household income of less than 300%:
 - No cost sharing, including premiums, deductibles and co-payments;
 - Must be enrolled in a “qualified health plan” through an Exchange;
 - “Native Americans” means members of a federally recognized tribe, pursuant to the Indian Health Care Improvement Act(IHCIA) and Section 4(d) of the Indian Self-Determination and Education Assistance Act (ISDEAA) definitions;
- For items or services under Indian Health Care Providers, under the Exchange, all Native Americans under 1402(d)(2) have eliminated cost sharing if the services or items are furnished directly by the IHS., a tribe, tribal organization, urban Indian organization, or through contract health services;
- Special monthly enrollment periods for Native Americans;
- Indian premium tax credits, reduced cost sharing, exemption from personal responsibility penalties should such penalties be imposed in state law; and
- A tribe, or group of tribes have a wide range of options regarding Exchange participation. Individual tribal members have the flexibility to participate in any Exchange, which includes any state Exchange, a federal Exchange or other tribally operated plans. The tribes can create an independent Exchange or participate in other regional Exchanges. Native American tribal members also have the option of enrolling in the federal employee health benefits program.

ADMINISTRATIVE IMPLICATIONS

The House Consumer and Public Affairs Committee amendments to the Senate Corporations and Transportation Committee Substitute for Senate Bills 38 and 370 as amended would require the Superintendent of Insurance to promulgate rules necessary to implement and carry out the provisions of the New Mexico Health Insurance Exchange Act. In addition, the Superintendent would be required to promulgate rules for resolving disputes arising from the operation of the Exchange in accordance with the provisions of the New Mexico health Insurance Exchange Act, including with respect to:

- The eligibility of an individual, employer or carrier to participate in the Exchange;
- Receiving an exemption from any state or federal individual requirement to retain minimum essential coverage; and
- The Exchange's collection and transmission to the applicable qualified health plans any applications for enrollment and all premium payments or contributions made by or on behalf of qualified individuals or qualified employers participating in the Exchange.

SB 38 & 370/SCORCS/aSFC provides that to the extent federal funding is available to the Exchange, the Exchange shall reimburse the New Mexico Health Insurance Alliance and the New Mexico Medical Insurance Pool, respectively, for such staff and other resources each agency may provide the Exchange. Currently, the NM Medical Insurance Pool administers a program that serves approximately 8,000 insured lives, and the NM Health Insurance Alliance administers a program that serves approximately 3,000 insured lives. In addition to these 11,000 lives, the Exchange is required to interface directly with the Medicaid program which currently serves 550,000 lives, and the federal government estimates that nearly 250,000 New Mexicans and over 20,000 small businesses could qualify for tax credits to purchase health insurance through the Exchange when it is fully operational in 2014.

SB 38 & 370/SCORCS would require the Superintendent of Insurance to adopt rules that implement the provisions of the New Mexico Health Insurance Exchange and adopt any other rules that the Superintendent deems necessary in order to carry out the provisions of the Exchange, including mechanisms for avoiding adverse selection and rules for conflict resolution. SB 38 & 370/SCORCS would require the Board of Directors of the New Mexico Health Insurance Exchange to meet with the Boards of Directors of NMHIA and NMMIP to:

- Develop a plan to provide portability of coverage for individuals covered through NMHIA and NMMIP to the extent possible through the New Mexico Health Insurance Exchange; and
- Prepare a report to the First Session of the Fifty-first Legislature on recommendations for transition of functions of NMHIA and NMMIP to the New Mexico Health Insurance Exchange and on any recommendations for continued and expanded health coverage of the state's residents.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 38 & 370/SCORCS relates to HB 257 which would require the Legislative Finance Committee (LFC) to perform a fiscal impact analysis (FIR) and report to the Legislature by November 1, 2011 on the comparative costs and coverage opportunities under three health benefits Exchange options, and requires that any agency that received federal funding for the planning or establishment of a health benefits Exchange pursuant to the federal PPACA (Patient

Protection and Affordable Care Act) to provide an unspecified amount of funding to assist the LFC in carrying out the provisions as contained in this bill.

Though not exactly identical, SB 38 & 370/SCORCS relates to, and is similar to, HB33/HCPACs/HHGACs/aHFI#1. Significantly, SB 38 & 370/SCORCS differs from HB33 by requiring appointments to the board from the boards of the NMHIA and the NMMIP, should those entities be in existence at the time of the board formation. It also specifically states that the Exchange is the entity to receive any federal funds allocated, appropriated or granted to the state for purposes of funding the planning, implementation or operation of a health insurance exchange.

Other notable differences include:

- SB 38 would have created a board with only nine voting members.

SB 38 & 370/SCORCS also relates to the following:

- HB33/HCPACs/HHGACs/aHFI
- HB245 (Health Insurance Purchasing Cooperative),
- HB246 (Amend Health Insurance Alliance Act),
- HB257 (LFC Perform FIR on Health Care Reform Designs),
- HB323 (“Interstate Health Care Freedom Compact”),
- HB584 (NM Health Benefit Exchange Act)
- SB5 (Health Security Act),
- SB89 (Private Health Insurance Purchasing Co-Op Act),
- SB90 (Health Insurance Access for Large Employers),
- SB208 (Health Insurance Rate Increase Review),
- SB227 (Benchmark Usual & Customary Rates),
- SB386 (LFC to Conduct FIRs on Health Care Designs),
- SJR5 (State Health Care System, CA).

TECHNICAL ISSUES

SB 38 & 370/SCORCS/aSFC establishes a nonprofit public corporation to govern and operate the Exchange. It should be noted that quasi-governmental public corporations are not subject to the Legislature’s appropriating and direct oversight authority. A fund in the New Mexico treasury could be created to collect funds assessed by the Exchange and these funds could then be appropriated by the New Mexico Legislature.

Given that SB 38 & 370/SCORCS/aSFC provides that to the extent federal funding is available to the Exchange, the Exchange shall reimburse the New Mexico Health Insurance Alliance and the New Mexico Medical Insurance Pool, respectively, for such staff and other resources each agency may provide, and it is unclear how this reimbursement provision will be financially transacted, monitored and audited, the following amendment is proposed:

On page 23, line 5, delete “To the extent federal funding is available to the New Mexico health insurance exchange, the New Mexico health insurance exchange shall reimburse the New Mexico health insurance alliance and the New Mexico medical insurance pool, respectively, for such resources as each may provide.”

OTHER SUBSTANTIVE ISSUES

HSD indicates various legal challenges have been brought against the PPACA. Final judicial resolution of these challenges is likely to take years.

The Health Policy Commission reports that according to *Cover the Uninsured*, a project of the Robert Wood Johnson Foundation, more than 50 million Americans are uninsured: More than 7 million of them are children; more than eight out of 10 are in working families.

New Mexico data highlights provided by *Cover the Uninsured* include:

- % of population w/ health insurance 79.9%
- % of employers offering health insurance to employees 51.2%
- % of population that could get medical care when needed 85.1%
- Patients served by FQHCs as a % of population under 200% FPL 30.2%

(Source: *Cover the Uninsured*. <http://covertheuninsured.org/category/state/new-mexico>)

A report funded by the Robert Wood Johnson Foundation and written by Urban Institute researchers estimates the effects that the PPACA will have on how people get their health insurance, the number of people who will still have no insurance and America's overall spending on health care. The report uses the Institute's Health Insurance Policy Simulation Model (HIPSM) to predict results as if the PPACA were fully implemented in 2010 and contrasts those outcomes with HIPSM's estimates for how these factors would look in 2010 without reform.

According to the report, under the PPACA:

- The share of adults under age 65 without health insurance would decline by 28 million, from 18.6 to 8.3 percent.
- Costs of uncompensated care provided to the uninsured would drop by 61 percent, from \$69.6 billion to \$27.3 billion.
- Nearly 30 percent of those who would have been uninsured without reform would be covered by Medicaid or the Children's Health Insurance Program (CHIP). Another 20 percent would be covered through the new health insurance exchanges and an additional 10 percent would be covered by private insurance outside the exchanges. Of the remaining 40 percent—those who would still be uninsured—most would be eligible for Medicaid or CHIP but are expected to choose not to enroll.
- The expansion of Medicaid would enroll 13 million adults and nearly 4 million children.
- About 44 million people under age 65 would be covered through health insurance exchanges. About half, 23 million, would be covered by nongroup insurance, the rest by employer-sponsored exchange plans.
- Total spending on acute health care for the non-elderly by the government, employers and individuals would increase by 4.5 percent, or \$53.1 billion if the PPACA were fully implemented in 2010. This estimate does not, however, take into account the cost-savings that are likely to occur from multiyear provisions such as Medicare and Medicaid savings and cost-containment programs.

(Source: <http://covertheuninsured.org/content/america-under-affordable-care-act>)

The New Mexico Center on Law and Poverty indicates the federal government estimates that nearly 250,000 New Mexicans and over 20,000 small businesses could qualify for tax credits to purchase health insurance through an Exchange when it is fully operational in 2014.

By federal law, the federal government is committed to paying the full costs for states to establish Exchanges, and will continue to pay these costs until January 1, 2015. Thus, there is no fiscal impact on New Mexico for developing an Exchange. New Mexico also stands to gain significant financial benefits by establishing an Exchange because the State will become eligible for 90% federal matching funds to develop its Medicaid computer eligibility systems. One important condition for receiving this enhanced match is that the Medicaid system must effectively coordinate enrollment with an Exchange. When federal funding for the Exchange ceases in January 1, 2015, the Exchange may continue to be self-sufficient by assessing charges or user fees from participating health insurers, and obtaining local or philanthropic grants.

The sooner that New Mexico establishes its Exchange, the more likely the state will meet these benchmarks and receive sufficient funding to fully develop its Exchange by 2014. In fact, HHS has developed a worksheet of example milestones that states should attempt to meet each year; it suggests that states should draft enabling legislation and develop a governance structure for the Exchange in the year 2011.¹ If New Mexico adopts legislation this year, the State would be on track to achieve the milestones for federal funding.

Federal funding will pay the full costs of developing a computer system for the Exchange and will provide 90% matching funds to Medicaid programs to develop systems that interact with the Exchange.

In summary:

1. Federal law mandates the federal government to pay the full costs for states to establish Exchanges.
2. Federal funding is already available for planning and will be increased according to state performance.
3. Federal funding will pay the full costs of developing a computer system for the Exchange and will provide 90% matching funds to Medicaid programs to develop systems that interact with the Exchange.
4. The Exchange may assess fees and apply for grants to become self-sufficient after January 1, 2015.
5. By developing models for the Exchange, the federal government can reduce costs and afford the full costs to fund state initiatives to establish Exchanges.
6. New Mexico must be capable of meeting benchmarks for progress to receive federal grant awards and avoid the federal government taking over operations of an Exchange for the State.
7. Delaying legislation may interfere with the effectiveness of the Exchange in carrying out its duties.
8. Medicaid IT system will receive significantly enhanced federal funding if it meets conditions to coordinate with an Exchange. Establishing the Exchange will be necessary for meeting this requirement.

¹ Department of Health and Human Services, *Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges*, at p. 6 (Jan. 20, 2011) (hereinafter “HHS Cooperative Agreement”), <http://apply07.grants.gov/apply/opportunities/instructions/opplE-HBE-11-004-cfda93.525-cidIE-HBE-11-004-012241-instructions.pdf>.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If New Mexico does not demonstrate, in early 2013, that it will be ready to run an Exchange by January 1, 2014, the federal government will implement and run an Exchange in the state.

RAE/bym:mew:svb