

<b>LFC Requester:</b>	<b>Christine Boerner</b>
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**AGENCY BILL ANALYSIS  
2017 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

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**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply: Date 2/2/2017  
**Original**     **Amendment**        **Bill No:** SB223  
**Correction**     **Substitute**   

**Sponsor:** Senator Daniel A. Ivey-Soto    **Agency Code:** 924  
Representative James E. Smith  
**Short Title:** ESSENTIAL HEALTH & DISEASE FUNCTIONS    **Person Writing:** Aguilar/A. Garcia  
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**SECTION II: FISCAL IMPACT**

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		See fiscal implications	See fiscal implications	See fiscal implications	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

Senate Bill 223 (SB223) amends, repeals, and enacts sections of the Comprehensive Strategic Plan for Health (Section 9-7-4.1, NMSA 1978). The sections directly affected are “essential health services and Department of Health functions, sexually transmitted infections, conditions of public health importance, communicable diseases, isolation and quarantine, and school health care oversight. The specific changes to these sections are outlined throughout SB223.

**FISCAL IMPLICATIONS**

SB223 does not contain an appropriation; therefore, there are no fiscal implications for the Public Education Department (PED). Any fiscal implications, including conducting state health assessments, would fall under the New Mexico Department of Health (DOH) and public health districts.

## **SIGNIFICANT ISSUES**

SB223 proposes several amendments, repeals, and enactments to NMSA 1978. First, it is proposed that the “Comprehensive Strategic Plan for Health” be retitled as the “State Health Improvement Plan”, and that it be updated and published “at least” every five years rather than “every four years.” The inclusion of “at least” appears to allow the opportunity for more frequent revisions as needed.

Other pertinent amendments to the State Health Plan include the addition of several definitions that may assist in providing a clearer understanding of NMSA 1978. Among the most relevant definitions are, “condition of public health importance,” “area of isolation or quarantine,” “active tuberculosis,” “screening,” and “test.” The addition of these definitions is necessary to support the inclusion of the new sections proposed in SB223. There are several amendments to language and terminology throughout SB223. Of note, the title “state board of education” is revised to read “public education department.” Also, “superintendent of public instruction” is amended to read “secretary of public education.” Both of these changes reflect current language used within the PED.

Section 6 of SB223 amends the “Creation of Health Districts” to the “Creation of Health Regions.” This appears to be an important distinction, especially in the case of school health services and school nursing. It is proposed that school nurses must be provided with medical oversight by the “regional health officer.” The school nurse will be responsible for making reports related to public health to the “regional health offices in the school nurse’s region.” Previously, the school nurse was to report to the “district” health officer.

Section 7 of SB223 amends Section 24-1-5 NMSA 1978, “Licensure of Health Facilities—Hearings—Appeals” to include subsection N. which states “The name and information regarding the person making a complaint pursuant to this section shall not be disclosed absent the consent of the information or a court order.” This is the only amendment to Section 24-1-5 NMSA 1978 and seems to provide clarification as to when it is appropriate to provide identifying information regarding the individual filing a complaint against a health facility.

Section 8 of SB223 is entirely new material and is titled “Sexually Transmitted Infections (STI) - - Reports of Cases.” The title as well as all other STI-related sections of SB223 (Sections 8-15) revise the current term used in the Comprehensive Strategic Plan for Health, which is “sexually transmitted diseases,” to “sexually transmitted infections.” This is the term currently recognized by the World Health Organization (<http://www.who.int/mediacentre/factsheets/fs110/en/>).

Section 9 states that “any person regardless of age” may consent for an examination and the treatment of an STI by a licensed “health care provider” which has been changed from licensed “physician.” This change appears to broaden the eligibility of who may provide the examination and treatment. This may result in an increase of the number of individuals examined and treated for STIs in New Mexico.

Section 13 of SB223 contains updates to the disclosure of STIs and includes the fact that a written statement must be included with all disclosures notifying the individual that there may be penalties for unauthorized disclosure. These penalties may include jail time and fines. The proposed amendments to the STI section clarify the fact that this written statement should not be construed as limiting an individual from sharing his or her own results.

Section 16 of SB223 contains a pertinent amendment which discusses the protocols for isolation and quarantine. The terms are defined throughout Section 16. In addition to word selection changes, the amendments to this section primarily include the conditions under which one would be subject to isolation or quarantine, such as infection with a “threatening communicable disease,” reasonable

belief that one may be infected, or refusal to be treated for such disease. SB223 discusses the conditions under which a court order may be necessary and when one may be isolated or quarantined without a court order. When isolated without a court order it is considered a “public health order” and expires after 24 hours. It is suggested that the public health order would only be utilized to promote the safety of the general population and to prevent further transmission of the disease when absolutely necessary. A very important addition to Section 24-1-15 NMSA 1978 requires the “secretary” to ensure that certain standards of care are met so that the individual isolated or quarantined is treated in a humane manner and the isolation or quarantine does not infringe on the individual’s rights. Section 16 of SB223, subsection N. also adds that an “employer shall not discharge from employment a person who is placed in isolation or quarantine.” It is possible that these facts were previously assumed; however, it was not explicitly stated or outlined as SB223 now proposes.

Section 17 of SB223, “Protocol for Management of Infectious Forms of Tuberculosis,” follows a very similar format to Section 16. It contains the same requirements for isolation or quarantine and describes the rights of the individual to be treated in a humane manner. The same employment protection is also described in this section. The term “infectious forms of tuberculosis” has been amended to “active tuberculosis.” This amendment seems to add clarification to the protocol, as the original NMSA 1978 did not specifically define the term “infectious forms of tuberculosis.” The definition of “active tuberculosis,” as stated in SB223, is in accordance with Center for Disease Control and Prevention (CDC) which defines tuberculosis as being caused by mycobacterium tuberculosis (<http://www.cdc.gov/tb/topic/basics/default.htm>).

Sections 18-20 of SB223 are new to the Act and are related to “conditions of public health importance.” Specifically, these three sections address reporting, testing and screening, and confidentiality. Section 18 requires the Department of Health to develop a list of reportable conditions of public health importance. This section also establishes guidelines for reporting and dissemination of such reports. Section 19 of SB223 tasks the DOH with establishing testing and screening procedures and programs to identify conditions of public health importance. Although Section 19 does contain language requiring the individual to be informed about the nature, scope, purposes, benefits, risks, and possible outcomes of the test or screening prior to it being performed, consent of the individual is not addressed. Instead, this section allows for the DOH to petition for the issuance of a court order to require testing or medical examination of any individual who has or may have been exposed to a condition of public health importance that poses a significant risk to the public’s health. Also, SB223 does not contain language referencing parental consent for school-age youth. It may be unclear if consent would be necessary and how it would be obtained in the event of testing or screening. Finally, Section 20 of SB223 addresses responsible and appropriate use of “individually identifiable health information” as it relates to conditions of public health concern.

### **PERFORMANCE IMPLICATIONS**

SB223 may support the PED’s strategic lever that all students are ready to learn by reinforcing the linkage between health and academic success.

### **ADMINISTRATIVE IMPLICATIONS**

SB223 may require all departments affected, including but not limited to the PED, to collaborate in the implementation of NMSA 1978 as indicated in SB223. The PED would need to provide clarification on testing and quarantines as applicable in the school setting per the Act.

### **TECHNICAL ISSUES**

The legislature may wish to consider including language related to informed consent of the individual being tested or screened and parental consent, when required, in the case of school-age

youth regarding testing and screening in Section 19 of SB223.