FISCAL IMPACT REPORT

		LAST UPDATED	1/27/25
SPONSOR	Chávez	**ORIGINAL DATE**	1/24/25
SHORT TITLE	Real Property From Health- Related Equipment	**BILL NUMBER**	House Bill 46
		ANALYST	Graeser

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Property Tax	$0	$0	$250.0	$500.0	$750.0	Recurring	Local Governments
			$20.0	$20,0	$20.0	Recurring	GOBs
Medicaid & Health Care Quality Reimbursements	$0	$0	At least $1,000.0	At least $1,000.0	At least $1,000.0	Recurring	Medicaid & Health Care Quality Reimbursement
State GRT	$0	$0	At least $400.0	At least $400.0	At least $400.0	Recurring	General Fund
Local GRT	$0	$	At least $400.0	At least $400.0	At least $400.0	Recurring	Local Governments

Parentheses ( ) indicate revenue decreases.
*Amounts reflect the most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
HCA	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund
TRD/PTD	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund
NMHELC	No fiscal impact	Up to $1,000	Up to $1,000	Up to $2,000	Recurring	Program Funds
Total	No fiscal impact	Up to $1,000	Up to $1,000	Up to $1,000		

Parentheses ( ) indicate expenditure decreases.

Sources of Information

LFC Files

<u>Agency Analysis Received From</u>
Health Care Authority (HCA)
New Mexico Attorney General (NMAG)
Taxation and Revenue Department (TRD)

<u>Agency Analysis was Solicited but Not Received From</u>
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of House Bill 46

House Bill 46 (HB46) amends two sections of the Hospital Equipment Loan Act (HELA) (58-23-1 through 58-23-32 NMSA 1978). The first removes real property from the definition of "health-related equipment," preventing the New Mexico Hospital Equipment Loan Council (NMHELC) from issuing bonds under the HELA "for the financing or refinancing of all or any part of the cost of" real property. The second section prospectively removes the property tax exemption for real property purchased, acquired, leased, financed, or refinanced with bonds issued under HELA before the effective date of July 1, 2025.

The effect of these provisions is that any new real property purchased with HELA bonds will be taxable. Real property previously purchased prior to July 1, 2025, will retain the tax exemption unless sold, leased or refinanced. This repeal of tax exemption applies to property tax and gross receipts and compensating taxes.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The fiscal impacts of the provisions of this bill are two-fold: (1) the impact on current real property constructed with HELA bond; and (2) prospective denial of property tax exemption for real property purchased with HELA bonds. Determining the fiscal impact of HB46 is complicated by questions about the legal soundness of the proposal (see "Significant Issues.") If the bill were to pass as is, actual costs might be related to litigation.

Since 1985, NMHELC has issued over $2.9 billion in revenue bonds. This has recently averaged about $100 million per year. Pursuant to information generated by TRD, the fiscal impact assumes 25 percent of HELA bonds were spent for real property construction.

Past HELOC Financing 1989-2024	
Haverland Carter Series 2022	$30,540,000
San Juan Regional Medical Center Series 2022	$20,000,000
San Juan Regional Medical Center, Series 2020	$36,175,000
Presbyterian Healthcare Services, Series 2019	$304,245,000
Haverland Carter Lifestyle Group, Series 2019	$112,590,000
Presbyterian Healthcare Services, Series 2017	$304,780,000
San Juan Regional Medical Center, Series 2017	$30,115,000
Presbyterian Healthcare Services, Series 2015	$237,160,000
Haverland Carter Lifestyle Group, Series 2012	$42,525,000
Roswell Regional Medical Center, Series 2012	$30,000,000
Gerald Champion Regional Medical Center, Series 2012	$71,745,000
Presbyterian Healthcare Services, Series 2012	$75,000,000
Lovelace Heart Hospital, Series 2011	$50,000,000
San Juan Regional Medical Center, Series 2010	$34,609,000
LaVida Llena, Series 2010	$63,885,000
Presbyterian Healthcare Services, Series 2009	$135,000,000
Lovelace Respiratory Research Institute, Series 2009	$11,000,000
Presbyterian Healthcare Services, Series 2008	$388,000,000
Lovelace Women's Hospital, Series 2007	$15,000,000
Rehoboth McKinley Christian Health Care Services, Series 2007	$7,600,000
St. Vincent Regional Medical Center, Series 2005	$23,540,000
Presbyterian Healthcare Services, Series 2005	$204,960,000
Lovelace Respiratory Research Institute, Series 2004	$5,000,000
Presbyterian Healthcare Services, Series 2004	$147,485,000

St. Vincent Hospital, Series 2003	$14,500,000
Rehoboth McKinley Christian Health Care Services Loan, Series 2002	$4,900,000
Covenant Health System Helicopter Lease, Series 2002	$4,615,445
Presbyterian Healthcare Services, 2001 Series A	$195,675,000
Memorial Medical Center, Lease Purchase Agreement, 2001	$2,745,000
St. Vincent Hospital, Master Financing Agreement, 2001	$5,000,000
Presbyterian Healthcare Services, 2000 Series A	$37,000,000
Dialysis Clinics, Inc., Series 2000	$5,000,000
Variable Rate Demand Revenue Bonds (Pooled Loan Program), 2000 Series A	$85,000,000
Rehoboth McKinley Christian Health Care Services	$4,900,000
Rehoboth McKinley Christian Health Care Services, Lease Purchase Agreement, Series 1999	$3,967,595
Memorial Medical Center, Series 1998	$44,995,000
Catholic Health Initiatives, Series 1997 A	$44,410,000
San Juan Regional Medical Center, Series 1996	$7,550,000
Memorial General Hospital, Series 1996	$18,010,000
Rehoboth McKinley Christian Hospital, Series 1996	$5,690,000
San Juan Regional Medical Center, Series 1991	$7,504,946
NMHELC Variable Rate Weekly Demand Hospital Equipment & Improvement Revenue Bonds, Series 1989	$35,000,000
Memorial General Hospital	$929,377
Rehoboth McKinley Christian Hospital	$1,850,000
St. Vincent Hospital	$3,097,925
Memorial General Hospital	$3,100,000
San Juan Regional Medical Center	$4,055,000
Memorial General Hospital	$2,199,928
Northeastern Regional Hospital	$152,432
NMHELC Variable Rate Weekly Demand Hospital Equipment & Improvement Revenue Bonds, Series 1985	$18,850,000
Presbyterian Medical Services	$700,000
St. Vincent Hospital	$1,091,986
Northeastern Regional Hospital	$156,345
St. Vincent Hospital	$1,102,393
Valencia	$637,000
SCHS Psychiatric	$460,000
St. Mary's Hospital	$977,564
Memorial General Hospital	$4,232,586
SCHS Clovis	$2,284,000
Northeastern Regional Hospital	$350,000
Total 1989-2024	**$2,953,643,522**

Beneficiaries of property tax revenue would gain an average of $8.3 million annually in the base taxable value, and the property tax amount would cascade. New real property construction would be subject to the gross receipts tax. The constitutional exemption mentioned below does not apply to gross receipts tax.

The provisions of this bill suggest NMHELC, which owns the real property and leases it to eligible hospitals, would begin paying property taxes and gross receipts taxes on new real property. If NMHELC increases its costs because of this new property tax, then the lease fees imposed on eligible entities (hospitals) would increase. HCA points out:

> If hospitals would need to pay property taxes on these assets, there would be an increase in their costs, which would be reported on the hospital cost report. These are generally allowable costs, and hospitals would be reimbursed for costs if the hospitals are cost settled, or if the cost report is used in a hospital re-base.

Beginning with the 2026 property tax year, real property funded by NMHELC bonds would become taxable; if 25 percent of the bond proceeds were used to build real property using an approximate mill levy of $30 per $1,000 taxable value on 1/3 of the total value, assessed property taxes on NMHELC bond-funded property would be about $250 thousand annually and would cascade. Existing real property subject to the property tax exemption would probably not be refinanced. The first property tax payments would be due in October 2027. According to HCA, these costs would be passed on to the eligible hospitals and become eligible costs for Medicaid and Medicare and likely eligible costs for insured and uninsured patients, increasing private insurance rates. The cost increases would also be reflected in gross receipts taxes and Health Quality Improvement Act (HQIA) reimbursements. To estimate these impacts, LFC applied the state and local GRT rates, as well as the HQIA reimbursement rates, to the estimated increased costs.

For the purpose of yield control (7-37-7 NMSA 1978), the new value in each jurisdiction was considered net new value and there will not be any change in yield-controlled rates.

SIGNIFICANT ISSUES

The principal intent of this bill may be to conform this program to the constitutional premise that the Legislature may enact property tax exemptions if the proposal is approved by ¾ of both houses. However, the Legislature may not create property tax exemptions for real property unless a constitutional amendment has been passed by the voters allowing such exemption.

HB46 leaves intact a provision in state law (58-23-5 NMSA 1978) that calls for NMHELC to be treated as a state agency under a section of the state constitution that exempts state entities from property taxes: "… the council is a state agency and instrumentality for the purposes of Article VIII, Section 3, of the constitution of New Mexico." As a result, it is not clear a property tax could be imposed. However, real property construction is not exempt from the gross receipts tax for government entities.

In addition, the New Mexico Attorney General (NMAG) notes HB46 may conflict with the provisions of Section 7-36-3 NMSA 1978, which was amended through the same legislation that added real property to HELA's definition of "health-related equipment."

> Property interests of a participating health facility in health-related equipment purchased, acquired, leased, financed or refinanced with the proceeds of bonds issued under [HELA] are exempt from property taxation for as long as the participating health facility remains liable for any amount under any lease, loan or other agreement securing the bonds, but not to exceed thirty years from the date the bonds were issued for the health-related equipment.

HB46 also leaves this section of law intact.

OTHER SIGNIFICANT ISSUES

NMAG notes HB46's provisions are prospective: The bill would likely be construed as a prospective—not retroactive—tax. The bill's language limits the removal of the property tax exemption to the period after its effective date. Thus, the bill merely "imposes a present tax which is measured by an antecedent fact." *See Hansman v. Bernalillo Cty. Assessor*, 1980-NMCA-088, 20-21, 95 N.M. 697. Accordingly, the bill would not impair vested rights and need not be analyzed for any due process implications that a retroactive tax scheme may involve.

TECHNICAL ISSUES

NMAG and TRD recommend the sponsor consider amending Section 7-36-3(C) NMSA 1978 to reflect the amendments proposed to Section 58-23-29(B) NMSA 1978 to ensure consistency and address potential conflicts within state law.

LG/rl/sl2/hg/sgs