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FISCAL IMPACT REPORT

ORIGINAL DATE 02/17/13
LAST UPDATED _____ **HB** _____

SPONSOR Kernan

SHORT TITLE Orthotic & Prosthetic Care Gross Receipts **SB** 267

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
	(\$24.0)	(\$26.0)	(\$29.0)	(\$31.0)	Recurring	Local Governments
	(\$141.0)	(\$152.0)	(\$164.0)	(\$177.0)	Recurring	General Fund (GRT)
	(\$10.0)	(\$10.0)	(\$10.0)	(\$10.0)	Recurring	General Fund (PIT)

(Parenthesis () Indicate Revenue Decreases)

Relates to HB99/SB269, and HB153/SB4.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)
 Taxation and Revenue Department (TRD)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate bill 267 amends section 7-2-18.22 NMSA 1978 to provide a rural health care practitioner tax credit for orthotists and prosthetists not to exceed \$5,000 per individual.

In this section an eligible health care practitioner includes an orthotist or prosthetist certified by the American board for certification in orthotics, prosthetics and pedorthics who develops and implements orthotic or prosthetic care plans pursuant to a prescription from a physician or osteopathic physician.

Sections 7-9-77.1 and 7-9-93 NMSA 1978, gross receipts tax for certain medical and health care services, is also amended to provide a deduction for orthotists and prosthetists.

In this section an orthotist or prosthetist means a person certified by the American board for certification in orthotics, prosthetics and pedorthics who develops and implements orthotic or prosthetic care plans pursuant to a prescription from a medical doctor or osteopathic physician.

The effective date of this bill is July 1, 2013. The applicability date of this bill is January 1, 2013. There is no sunset date. The LFC recommends adding a sunset date.

FISCAL IMPLICATIONS

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

This bill will further narrow the gross receipts tax base and would move New Mexico away from the tax policy goal of a gross receipts tax with a broad equitable base and a low rate.

As estimated by the TRD, the credit and deduction for provision of services to Medicare beneficiaries will affect both local governments and the general fund. There were 11 prosthetist orthotist service offices with 23 certified practitioners in New Mexico according to the industry's 2012 information. The Workforce Solutions Department estimates that, by 2020 the number of orthotists and prosthetists will not grow. Compared to other occupations, employment growth in this occupation is growing more slowly than the average.

In the US, only about 9 percent of registered physicians practice in rural areas. It appears that there are 2 physicians practicing in areas of New Mexico that have insufficient health care services for other medical specialties and thus likely have insufficient orthotic and prosthetic health care services and would be eligible for the rural health care practitioner tax credit with \$10,000 ($\$5,000 \times 2$) a year.

The estimate assumes the average receipts for orthotists or prosthetists are about \$150,000 and the tax is calculated using the average gross receipts tax rate of 7.2 percent. In addition, data from the Kaiser Family Foundation, such as New Mexico health care expenditures, and its average annual percent growth, Medicare spending estimates and its average annual percent growth, and private health insurance coverage of the total population was used in this estimate.

As reported by HSD, payments from the Medicaid program or its managed care organizations are not included in the allowed gross receipts deductions because those payments do not meet any of the requirements that must be met to allow the deductions to be taken. Together, Medicaid fee for service and Medicaid managed care organizations pay approximately \$4 million for these services annually.

SIGNIFICANT ISSUES

The current rural health care practitioner tax credit allows a \$5,000 credit to physicians, osteopathic physicians, dentists, clinical psychologists, podiatrists, and optometrists. All other qualifying health care practitioners (dental hygienists, physician assistants, certified nurse-midwives, certified registered nurse anesthetists, certified nurse practitioners and clinical nurse specialists) only qualify for a \$3,000 credit. This bill would put orthotists and prosthetists into the higher tier.

As reported by DFA, this may provide an incentive for orthotists and prosthetists to extend services to rural under-served areas in New Mexico, which may increase access to these services for those that live in these areas. This might decrease revenue for the state, which could lead to tax increases in other sectors or decreases in spending.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

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