F I S C A L I M P A C T R E P O R T

SPONSOR SPAC **ORIGINAL DATE** 02/08/14 **LAST UPDATED** 02/20/14 **HB**

SHORT TITLE Sole Community Provider Federal Compliance **SB** CS/268 & 314 and CS/368/aSFC/ aSFl#1/aSFl#2

ANALYST Geisler

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		
	$25,875.3	$25,875.3	Recurring	Safety Net Care Pool Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 349, HB 350
Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION
LFC Files

Responses Received From
Human Services Department (HSD)
Taxation and Revenue Department (TRD)
Association of Counties

SUMMARY

Synopsis of SFl Amendment #1 & #2

The Senate Floor amendments to Senate Public Affairs Committee substitute for Senate Bill 268 & 314 and Senate Finance Committee substitute for Senate Bill 368 restores the mandatory county transfer in support of the safety net care pool to the one-twelfth gross receipt tax increment level. Senate Floor amendment #2 directs the HSD to seek funds and use its budget adjustment authority to fully fund the safety net care pool fund.

Under this bill as amended, a one-twelfth increment of gross receipts tax (or equivalent) will be transferred to the "Safety Net Care Pool Fund" to make payments to hospitals. This transfer would expire after 3 years (July 1, 2019). The bill provides the counties with additional gross receipts taxation authority for general purposes of one-sixteenth percent or one-twelfth percent. Other than the change in expiration from five years to 3 years, the bill as amended substantially

tracks to the original Senate Public Affairs Committee substitute bill discussed in the analysis below.

Synopsis of SFC Amendments

The Senate Finance Committee amendments to Senate Public Affairs Committee substitute for SB 268 and SB 314 and Senate Finance Committee substitute for Senate Bill 368 change the mandatory county transfer from one-twelfth gross receipts tax equivalent to a higher increment of one-eighth and also increase the allowable amount of the additional county gross receipts tax increment to one-eighth from one-twelfth. The transfer period would now expire after three years instead of five years.

The increase in the transfer will raise approximately $34.7 million from the counties, lower than the original projection of $36.4 million due to the exclusion of Sandoval County. However, the transfer when combined with state general fund of $9 million dollars and a transfer from the University of New Mexico Health Sciences Center of $14 million essentially funds the state match needed for the approximately $190 million in hospital payments planned by the HSD.

Synopsis of Original Bill

The Senate Public Affairs Committee substitute for SB 268 and SB 314 and the Senate Finance Committee substitute for SB 368 would amend and repeal various sections of current statute to comply with federally approved changes to the Sole Community Provider Fund. As of December 31, 2013, that program was terminated and replaced by the Safety Net Care Pool.

Under this bill, a one-twelfth increment of gross receipts tax (or equivalent) will be transferred to the "Safety Net Care Pool Fund" to make payments to hospitals. This transfer would expire after five years (July 1, 2019). The bill provides the counties with additional gross receipts taxation authority for general purposes of one-sixteenth percent or one-twelfth percent.

The bill exempts Sandoval County from the provisions of this bill. An exemption for Bernalillo County already exists in statute. The bill also amends the current statute related to the powers and duties of the counties related to indigent care. The bill would allow the counties to budget for expenditures on ambulance services, burial expenses, and hospital or medical expenses for indigent residents of their county. The bill adds new language allowing counties to cover health insurance premiums for indigent patients as well as their out-of-pocket costs. It also allows reimbursement of county administrative expense to administer the indigent program. The bill also prohibits the collection of claims against an indigent patient with a household income under two hundred percent of the federal poverty level.

The bill would require that qualifying hospitals receiving payment from the Safety Net Care Pool file a quarterly report on all indigent health care funding with the HSD and the County Commission. The report would contain the criteria determining how an indigent patient is deemed eligible for health care services; the total cost of health care services provided by the hospital for indigent patients; a breakdown of the services provided and the corresponding aggregate cost; the restrictions on health care services provided by the hospital for indigent patients; and a list of all revenue sources, with corresponding amounts used by the qualifying hospital to provide health care services to indigent patients.

Lastly, the bill would require HSD to submit a quarterly report to the Legislative Finance Committee containing the previous quarter's Safety Net Care Pool Fund receipts and the disposition of funds. The report would be due by the last day of the succeeding quarter. The bill contains an emergency clause to be made effective immediately if passed.

FISCAL IMPLICATIONS

HSD has estimated that approximately $60 million in state revenue would be needed to fully fund the match for the Safety Net Care Pool and enhanced Medicaid rates for qualifying hospitals (formerly known as Sole Community Provider Hospitals). To arrive at this amount, the plan assumed approximately $36.4 million would come from the counties through a transfer of a one-eighth equivalent and $14 million in transfers would come from the University of New Mexico Health Sciences Center to fund their portion of the program. For the first time, state general fund would be needed to support the program in amount of $9 million to $10 million. The $60 million would be matched with $132 million in federal Medicaid fund for a total program for hospital payments estimated at $192 million.

However, the equivalent of a one-twelfth gross receipts tax transfer proposed in this bill would only provide approximately $25.9 million—a shortage over $10 million. This would result in the state not being able to make about $42.2 million in payments to qualifying hospitals.

	Authorized Payments to Qualifying Hospitals*	**Payments amount available in SPAC substitute**	**Change**
Total	$192,091,274	$149,870,847	(42,220,427)

*This amount could be matched and paid with a 1/8th equivalent transfer from counties.

HSD notes this funding stream for hospitals has already been reduced significantly down from peak funding of $278 million in FY11. By further reducing payments due to inadequate county funding, hospitals, particularly small hospitals in rural areas, may be forced to reduce services or even close.

HSD notes that the bill also authorizes new taxing authority for counties, in the amount of 1/16th or 1/12th GRT increments. Last year counties received three new general purpose 1/8th increments, called "County Hold Harmless Gross Receipt Tax". This authority was in addition to multiple authorized but unused GRT county increments already in statute, including increments in the County Gross Receipts Tax Act.

SIGNIFICANT ISSUES

The Association of Counties notes that the bill strikes a balance among county, hospital and state interests by amending the county local option gross receipts tax statutes and amending and repealing sections of the Indigent Hospital and County Health Care Act to comply with changes in federal regulations that replace the sole community provider hospital program. The bill provides a more equitable alternative that will not preempt local authority and that will not eliminate vital services for the most vulnerable county residents. In addition, the bill provides a guaranteed transfer of a one-twelfth increment while still leaving some indigent funds with the counties to cover non-Medicaid eligible services provided by the counties.

HSD notes that the Sole Community Provider program had provided supplemental payments to support hospitals in New Mexico that are the principal or sole provider of hospital services in their service areas, as well as the primary point of access to health care for the poor and other uninsured. Most of these 29 hospitals are in the most rural areas of the State, and all except the University of New Mexico Hospital are outside of Bernalillo County.

Payments from the program grew annually, reaching a high of about $278 million in FY11. Counties have supplied the state matching funds for this program, generally from their County Indigent Fund. The state, historically, has not used general appropriation for these payments.

At the end of 2012 the program faced a 70 percent reduction in allowable funding, reducing available payments from $246 million to about $69 million in FY13. The state began working with the federal Centers for Medicare and Medicaid Services (CMS) to replace the program and maintain higher hospital payments, ultimately including a new payment structure in the Centennial Care waiver program.

This new program, the Safety Net Care Pool, includes a pool of funding ($69 million) for uncompensated care and a rate increase for this same group of hospitals (about $120-$130 million). The new program began January 1, 2014. This and other bills seek to provide the state matching funds to make payments at these proposed levels. The SPAC substitute bill falls short in that effort.

Preserving the ability of these hospitals to stay open and provide critical care and access is crucial to the success of the Medicaid program and county health care services. Given the significance of this issue, HSD has been working with counties and hospitals for more than a year to ensure adequate funding for this program and other county services.

ADMINISTRATIVE IMPLICATIONS

The bill contains language that would require the qualifying hospitals receiving payments to submit a quarterly report to HSD. It would also require HSD to file a quarterly report of the receipts and disposition of funds to the LFC. The bill doesn't delineate consequences for hospitals not filing the quarterly report to HSD. Also, additional resources may be needed to review the reports from the hospitals and to prepare the quarterly report to the LFC.

Much of the information required here will be included in uncompensated care reports that HSD and CMS require hospitals to file in order to receive payments from the UC pool. The reporting required here could be duplicative and unnecessarily costly, given the multitude of other reports being provided for this and other programs.

RELATIONSHIP

HB 350 and the original SB 368 impose a transfer requirement of one-eighth gross receipts tax increment, essentially providing the revenue level to fully fund the program as envisioned by HSD. HB 349 amends the gross receipts requirements for hospitals, raising additional state revenue that could be appropriated to support schemes that only provide a one-sixteenth county contribution.

OTHER SUBSTANTIVE ISSUES

County Concerns about HSD's Original Proposal

As noted above, HSD's original proposal was for a transfer of one-eighth gross receipts tax increment or equivalent. The Association of Counties provided the following background on county concerns with that proposal:

- One of the major changes is that funds provided by counties for the federal match no longer will be returned directly to that county's local hospital. Rather, the funds will be put into two pools—one to pay for a Medicaid base rate increase and one to pay for uncompensated care. Hospitals with over 200 beds will not be eligible to receive funds from the uncompensated care pool.
- HSD requests that the counties fund the safety net care pool, including the Medicaid base rate increase, with the equivalent of a county gross receipts tax (GRT) increment of 1/8th of a cent. However, Medicaid is a state program, not a county program.
- In addition to supporting their sole community hospital, counties use revenues from the second 1/8th increment to support a wide range of health care services critical to citizens who are not eligible for Medicaid. In FY 2013, counties spent over $1 million for ambulance services, nearly $4 million to out-of-county hospitals, over $1 million for mental health treatment, over $1.7 million for substance abuse treatment and rehab, and nearly $6 million for community based care such as primary care, office visits, prenatal and dental care.
- The New Mexico Association of Counties' Board of Directors unanimously opposed the HSD proposal because it would preempt local county authority. The counties have the responsibility to determine how to allocate tax funds that are generated within the county. The HSD proposal preempts local authority on the utilization of local tax revenues. The HSD proposal would consume the entire 1/8th increment, leaving the counties with the responsibility for paying for indigent health care from other sources. The practical effect will be the substantial reduction of indigent services in many counties. The HSD proposal will require counties to have to make draconian decisions, e.g., raise taxes and/or reduce services—in some cases eliminating the indigent program altogether.
- The HSD proposal will result in gross inequities for many counties and their local hospitals.

Hospital Concerns with Indigent Language

The bill also prohibits the collection of claims against an indigent patient with a household income under two hundred percent of the federal poverty level. The New Mexico Hospital Association notes that this language would eliminate the incentive for patients to enroll in Medicaid because they in effect would be guaranteed free hospital care—this could actually increase uncompensated care.

The association notes that the safety net care pool is only about Medicaid uncompensated care cost. Hospitals are accountable for payments for that uncompensated care through a detailed auditing process. Neither the substitute bill nor the safety net care would reimburse hospitals for their general uncompensated care cost and no public policy about collection of those costs should be added to this bill.

ALTERNATIVES

Other alternatives in other bills have included a one-sixteenth or one-eighth increment. Even at the one-eighth increment state general fund of approximately $9 million would be needed to meet the state match requirement.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There is currently no mechanism in place for funding the Safety Net Care Pool, and the state would not be able to make payments totaling almost $200 million. Hospitals may be forced to reduce services, or in some cases, close.

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