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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/17  
 SPONSOR Smith/ Ingle LAST UPDATED 02/20/17 HB \_\_\_\_\_  
 SHORT TITLE Gross Receipts Tax Changes SB 457  
 ANALYST Clark/Graeser

### REVENUE (dollars in thousands)

#### Healthcare Tax Reform

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19	FY20	FY21		
	\$68,128.0	\$70,002.0	\$72,146.0	\$74,771.0	Recurring	General Fund GRT
	\$24,351.0	\$23,702.0	\$21,928.0	\$20,403.0	Recurring	General Fund (hold harmless)
	\$19,141.0	\$19,664.0	\$20,264.0	\$20,998.0	Recurring	General Fund GGRT
	\$111,620.0	\$113,368.0	\$114,338.0	\$116,173.0	Recurring	General Fund Total
	\$35,161.0	\$36,129.0	\$37,237.0	\$38,593.0	Recurring	Local Governments GRT
	(\$24,351.0)	(\$23,702.0)	(\$21,928.0)	(\$20,403.0)	Recurring	Local Government (hold harmless)
	\$10,810.0	\$12,427.0	\$15,309.0	\$18,190.0	Recurring	Local Government Total

Parenthesis ( ) indicate expenditure decreases. \*\* R = recurring; NR = non-recurring

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

	FY17	FY18	FY19	3 Year Total Cost	R or NR **	Fund Affected
<b>Total</b>		See Narrative				

Parenthesis ( ) indicate expenditure decreases. \*\* R = recurring; NR = non-recurring

The Taxation and Revenue Department likely will report a high impact to implement the healthcare tax reform provisions.

### SOURCES OF INFORMATION

LFC Files

No Responses Received

## SUMMARY

### Synopsis of Bill

Senate Bill 457 proposes leveling the playing field in the healthcare industry through comprehensive healthcare tax reform and creation of a 60% “universal deduction.”

- Brings non-profit hospitals into the gross receipts tax base. This will increase state and local government gross receipts tax revenue.
- Brings governmental hospitals into the governmental gross receipts tax (GGRT) base but distributes this additional revenue to the general fund, increasing state but not local GRT revenues.
- Allows all hospitals a deduction of 60% of net patient care revenues. The GRT or the GGRT will not be collected from non-profit or governmental hospitals on any other source of revenue, such as grants, research contracts, mill levies, or sales of tangibles (unless governmental hospitals are already paying GGRT on the sales of tangibles from facilities open to the general public).
- Repeals the for-profit hospital tax credit of 7-9-96.1 NMSA 1978.
- Repeals the Medicare deduction (7-9-77.1 NMSA 1978) applied to listed healthcare practitioners in favor of allowing a 60% deduction from all revenues. Some categories of practitioners and entities allowed the current Medicare deduction will not be allowed the 60% deduction. These include home healthcare services, nursing homes, hospice organizations, dialysis centers, athletic trainers, nutritionists and dietitians, pharmacists, audiologists, and massage therapists.
- Repeals the healthcare services hold harmless distributions to counties and municipalities. Although this feature may have substantially differing impacts on individual counties and municipalities, the overall impact is positive for the repeal of hold harmless, the change in deductions for healthcare practitioners, and bringing the non-profit hospitals and government hospitals into the gross receipts tax base.

## FISCAL IMPLICATIONS

This has been a particularly difficult item to score. Definitive data from the Centers for Medicare and Medicaid Services (CMS) have only been published through 2009 – prior to the implementation of the Affordable Care Act. Fairly complete data are available for Medicaid reimbursements, but the allocation of these expenditures to relevant tax status categories was difficult. Some relevant data which otherwise might be available from TRD are covered by confidentiality requirements surrounding certain taxpayer information.

LFC staff have prepared a comprehensive model of the healthcare sector and have cross validated these data from numerous sources, including:

- The 1991 – 2009 comprehensive compendium of healthcare costs by sector from CMS -- these data include an estimate of total healthcare costs for all residents of New Mexico, Medicaid costs, and Medicare costs;
- 2012 Economic Census of the Healthcare and Social Services sector, sub-allocated into for-profit entities and not-for-profit entities and further sub-allocated into patient care revenues, grants, appropriations and other sources of income;
- TRD’s RP-80 GRT history for calendar 2012 and the period June 2015 through May 2016, with differences between aggregate state totals and the sum of the detail

reallocated to the redactions for confidentiality;

- Some updated information available from Kaiser Family Foundation;
- Extensive history and forecasts from HSD on Medicaid enrollments and expenditures;
- Extensive data from hospital cost reports (CMS) with a comprehensive analysis assembled by LFC staff for the SM-37 investigation;
- IHS Global-Insight forecasts of national healthcare services and tangibles inflation and natural growth; and
- 2015 and 2016 editions of the TRD Tax Expenditure Report.

FY 18 Impact -- 60% universal deduction; repeal hold harmless

	Non-profits				For-Profit Entities						Total
	Hospitals *		Other **		Practitioners ***		Hospitals		Other ****		
	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	
Current State Revenue	\$0	\$0	\$0	\$0	\$59,900	-\$18,500	\$0	-\$4,300	\$25,900	-\$1,555	\$61,457
Current Local Revenue	\$0	\$0	\$0	\$0	\$44,500	\$18,500	\$18,100	\$4,300	\$20,000	\$1,555	\$107,024
Proposed State Revenue	\$53,600	\$0	\$0	\$0	\$55,700	\$0	\$30,000	\$0	\$33,700	\$0	\$173,076
Proposed Local Revenue	\$27,100	\$0	\$0	\$0	\$41,100	\$0	\$23,600	\$0	\$26,125	\$0	\$117,834
Change in State Revenue	\$53,600	\$0	\$0	\$0	-\$4,200	\$18,500	\$30,000	\$4,300	\$7,779	\$1,555	\$111,620
Change in Local Revenue	\$27,100	\$0	\$0	\$0	-\$3,500	-\$18,500	\$5,400	-\$4,300	\$6,114	-\$1,555	\$10,810
* Includes Government and Non-Profit Hospitals											
** Includes Outpatient Care, Home Health, Other Ambulatory Care and Nursing and residential care facilities											
*** Includes: Physicians, Dentists, Other Health Practitioners, Outpatient Care and Medical Laboratories											
**** Includes: Home Health, Other Ambulatory Care, Nursing and Residential Care Facilities											

Note that the bulk of the revenue increase attributed to provisions of this bill will be borne by the non-profit and government hospitals and to a lesser extent, by the for-profit hospitals.

(\$ millions)

FY 18 (\$ millions)	Patient Care Revenue	Increase in State Revenue	Increase in Local Revenue	Total Effective Rate	Current Effective Rate
For Profit Hospitals	\$1,939	\$34.31	\$1.19	2.76%	0.93%
Non-profit hospitals	\$2,271	\$34.50	\$27.07	2.68%	0.00%
Government Hospitals	\$1,003	\$19.14	\$0.00	1.89%	0.00%

(\$ millions)

FY 18 (\$ millions)	Gross Receipts	Increase in State Revenue	Increase in Local Revenue	Total Effective Rate	Current Effective Rate
Practitioners	\$2,745	\$14.33	(\$22.01)	3.395%	3.66%
Other	\$941	\$9.33	\$4.56	6.277%	4.82%

Doctors, dentists and other Healthcare practitioners will enjoy a small tax reduction from this proposal. Other healthcare entities, including for-profit home health agencies, nursing homes, dialysis (outpatient care) centers, audiologists, and massage therapists will experience a tax

increase.

While the aggregate impact on local communities appear to be positive, the impact on individual communities will be somewhat difficult to determine. If there is state or local revenue impact, there could be a local economic impact.

Category	Local Revenue Impact	State Revenue Impact
Local government with a private hospital within its jurisdiction	Increase in deduction from 50% to 60% causes decrease in local revenue.	State taxes increase because of repealing state-level credit.
Local government with a non-profit hospital within its jurisdiction	Increase in tax base by inclusion of 40% of receipts of non-profit hospital.	State taxes increase by inclusion of 40% of receipts of non-profit hospital.
Local healthcare practitioners with low levels of Medicare and Medicaid reimbursements	The 60% deduction for all sources of income will decrease local taxes.	State taxes will decrease by changing to a 60% deduction for all sources of income.
Local healthcare practitioners with high levels of Medicare and Medicaid reimbursements	The 60% deduction may be less than the current 7-9-77.1 and 7-9-93 NMSA deductions. Local taxes will increase.	State taxes will increase by removing 7-9-77.1 and changing 7-9-93 to 60%.
Nursing homes, hospice services, home health services paid by Medicaid or Medicare.	These entities do not qualify for the new 60% deduction. Local taxes will increase, perhaps significantly.	State taxes would also increase, perhaps significantly.

Offsetting any potential negative local economic impacts are two factors: (1) Medicaid reimbursements to all hospitals will probably increase, since one reason for this bill is to restore and expand Medicaid eligibility and reimbursements; and (2) without this and other revenue raisers, the state budget could shrink on an inflation-adjusted basis and require budgets of all state-funded institutions to decline. This may affect local government and private direct, indirect, and induced employment.

This bill addresses the LFC tax policy principles of adequacy, efficiency, and equity. The increasing cost of tax expenditures has contributed to revenue problems. The provisions of this bill may partially reduce some revenue leakage attributed either to loopholes or to shifts in commercial patterns.

### SIGNIFICANT ISSUES

In 2004 and subsequent years, the Richardson administration enacted health care industry tax expenditures in excess of \$80 million; however, the health care landscape changed significantly in the intervening years. The industry is one of just two bright spots in New Mexico for job growth, yet it remains largely untaxed. Fueled by the Affordable Care Act and Medicaid expansion, the industry would likely grow substantially regardless of the tax expenditures in place, resulting in significant and perhaps unnecessary costs to the state. The revenue issue is exacerbated by the growing cost of the state’s Medicaid payments. The changes proposed in these sections of the bill would generate about \$111 million in new revenue for FY18 (with a July 1, 2017 effective date), increasing slowly in subsequent years.

The bill would correct an inequity in which differing levels of tax are imposed for the same services delivered depending on the legal status of the hospital or clinic and on the nature of the payment – be it Medicare, Medicaid, TRICARE, Indian Health, private health insurance, or self-payment.

The bill would subject 40% of patient care receipts of private, non-profit, and government general hospitals, specialty hospitals, and behavioral health facilities to the gross receipts tax. Currently, the law only applies to for-profit facilities. Taxing nonprofit and government facilities would be a major step in applying the tax in an equitable manner.

It repeals 7-9-77.1 NMSA 1978, which provides a deduction for receipts services by doctors and other health care providers from Medicare, receipts from palliative services by hospice and nursing homes paid by Medicare, receipts from services by doctors and other health care providers from TRICARE and IHS, and receipts from Medicare for services provided by medical labs, home health services, and dialysis centers. The bill repeals the 7-9-96.1 NMSA 1978 private hospital credit. These repeals are in favor of the 60% universal deduction referenced above.

It would also level the playing field for doctors, dentists, and other healthcare practitioners related to source of payment for services, treating all sources of payment, including private payment, equally. The current law allows a deduction for payments from managed health care providers, health care insurers for commercial contract services, or Medicare Part C services (amending 7-9-93 NMSA 1978).

Because the provisions of the bill will generate a substantial amount of own-source revenue for municipalities and counties, the bill repeals the healthcare practitioner services hold harmless payments to municipalities and counties (7-1-6.46 and 7-1-6.47 NMSA 1978). Additional revenue from health care practitioners would result in a reduction in the state's medical services hold harmless payments, although subject to bond impairment provisions. Additional revenue from taxing non-profit health care facilities are not subject to the hold harmless provisions and would remain with the local governments.

## **ADMINISTRATIVE IMPLICATIONS**

The Taxation and Revenue Department likely will report a high impact to implement the healthcare tax reform provisions. It may be that TRD will need to contract the programming to implement these substantial changes to the GenTax system prior to the July 1, 2017 date. Such contracted systems work may require a supplemental appropriation.

LG & JC/sb/jle

**Appendix: Healthcare Tax Reform Provisions Detailed Analysis**

FY 18 Impact -- 60% universal deduction; repeal hold harmless

	Non-profits				For-Profit Entities						Total
	Hospitals *		Other **		Practitioners ***		Hospitals		Other ****		
	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	
Current State Revenue	\$0	\$0	\$0	\$0	\$59,900	-\$18,500	\$0	-\$4,300	\$25,900	-\$1,600	\$61,400
Current Local Revenue	\$0	\$0	\$0	\$0	\$44,500	\$18,500	\$18,100	\$4,300	\$20,000	\$1,600	\$107,000
Proposed State Revenue	\$53,600	\$0	\$0	\$0	\$55,700	\$0	\$30,000	\$0	\$33,700	\$0	\$173,000
Proposed Local Revenue	\$27,100	\$0	\$0	\$0	\$41,100	\$0	\$23,600	\$0	\$26,100	\$0	\$117,900
Change in State Revenue	\$53,600	\$0	\$0	\$0	-\$4,200	\$18,500	\$30,000	\$4,300	\$7,800	\$1,600	\$111,600
Change in Local Revenue	\$27,100	\$0	\$0	\$0	-\$3,400	-\$18,500	\$5,500	-\$4,300	\$6,100	-\$1,600	\$10,900
* Includes Government and Non-Profit Hospitals											
** Includes Outpatient Care, Home Health, Other Ambulatory Care and Nursing and residential care facilities											
*** Includes: Physicians, Dentists, Other Health Practitioners, Outpatient Care and Medical Laboratories											
**** Includes: Home Health, Other Ambulatory Care, Nursing and Residential Care Facilities											

FY 19 Impact -- 60% Universal Deduction

	Non-profits				For-Profit Entities						Total
	Hospitals *		Other **		Practitioners ***		Hospitals		Other ****		
	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	
Current State Revenue	\$0	\$0	\$0	\$0	\$61,300	-\$18,000	\$0	-\$4,200	\$26,600	-\$1,500	\$64,200
Current Local Revenue	\$0	\$0	\$0	\$0	\$45,600	\$18,000	\$18,600	\$4,200	\$20,500	\$1,500	\$108,400
Proposed State Revenue	\$55,100	\$0	\$0	\$0	\$57,000	\$0	\$30,900	\$0	\$34,600	\$0	\$177,600
Proposed Local Revenue	\$27,800	\$0	\$0	\$0	\$42,000	\$0	\$24,200	\$0	\$26,800	\$0	\$120,800
Change in State Revenue	\$55,100	\$0	\$0	\$0	-\$4,300	\$18,000	\$30,900	\$4,200	\$8,000	\$1,500	\$113,400
Change in Local Revenue	\$27,800	\$0	\$0	\$0	-\$3,600	-\$18,000	\$5,600	-\$4,200	\$6,300	-\$1,500	\$12,400
* Includes Government and Non-Profit Hospitals											
** Includes Outpatient Care, Home Health, Other Ambulatory Care and Nursing and residential care facilities											
*** Includes: Physicians, Dentists, Other Health Practitioners, Outpatient Care and Medical Laboratories											
**** Includes: Home Health, Other Ambulatory Care, Nursing and Residential Care Facilities											

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FY 20 Impact -- 60% Universal Deduction

	Non-profits				For-Profit Entities						Total
	Hospitals *		Other **		Practitioners ***		Hospitals		Other ****		
	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	
Current State Revenue	\$0	\$0	\$0	\$0	\$63,000	-\$16,700	\$0	-\$3,900	\$27,400	-\$1,400	\$68,400
Current Local Revenue	\$0	\$0	\$0	\$0	\$46,800	\$16,700	\$19,200	\$3,900	\$21,100	\$1,400	\$109,100
Proposed State Revenue	\$56,800	\$0	\$0	\$0	\$58,600	\$0	\$31,800	\$0	\$35,600	\$0	\$182,800
Proposed Local Revenue	\$28,700	\$0	\$0	\$0	\$43,200	\$0	\$25,000	\$0	\$27,600	\$0	\$124,500
Change in State Revenue	\$56,800	\$0	\$0	\$0	-\$4,400	\$16,700	\$31,800	\$3,900	\$8,200	\$1,400	\$114,400
Change in Local Revenue	\$28,700	\$0	\$0	\$0	-\$3,600	-\$16,700	\$5,800	-\$3,900	\$6,500	-\$1,400	\$15,400
* Includes Government and Non-Profit Hospitals											
** Includes Outpatient Care, Home Health, Other Ambulatory Care and Nursing and residential care facilities											
*** Includes: Physicians, Dentists, Other Health Practitioners, Outpatient Care and Medical Laboratories											
**** Includes: Home Health, Other Ambulatory Care, Nursing and Residential Care Facilities											

FY 21 Impact -- 60% Universal Deduction

	Non-profits				For-Profit Entities						Total
	Hospitals *		Other **		Practitioners ***		Hospitals		Other ****		
	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	Tax Revenue	Hold Harmless	
Current State Revenue	\$0	\$0	\$0	\$0	\$65,000	-\$15,500	\$0	-\$3,600	\$28,300	-\$1,300	\$72,900
Current Local Revenue	\$0	\$0	\$0	\$0	\$48,400	\$15,500	\$19,900	\$3,600	\$21,800	\$1,300	\$110,500
Proposed State Revenue	\$58,900	\$0	\$0	\$0	\$60,500	\$0	\$33,000	\$0	\$36,800	\$0	\$189,200
Proposed Local Revenue	\$29,700	\$0	\$0	\$0	\$44,600	\$0	\$25,900	\$0	\$28,500	\$0	\$128,700
Change in State Revenue	\$58,900	\$0	\$0	\$0	-\$4,500	\$15,500	\$33,000	\$3,600	\$8,500	\$1,300	\$116,300
Change in Local Revenue	\$29,700	\$0	\$0	\$0	-\$3,800	-\$15,500	\$6,000	-\$3,600	\$6,700	-\$1,300	\$18,200
* Includes Government and Non-Profit Hospitals											
** Includes Outpatient Care, Home Health, Other Ambulatory Care and Nursing and residential care facilities											
*** Includes: Physicians, Dentists, Other Health Practitioners, Outpatient Care and Medical Laboratories											
**** Includes: Home Health, Other Ambulatory Care, Nursing and Residential Care Facilities											





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	FY 2018									FY 2018		
	For-Profit Establishments											
	6211	6212	6213	6214	6215	6216	6219	622	623			
	Offices of physicians	Offices of dentists	Offices of other health practitioners	Outpatient care centers	Medical and diagnostic laboratories	Home health care services	Other ambulatory health care services	Hospitals	Nursing and residential care facilities	Total	Current Law	Change
Patient Care Revenue	\$1,180,447	\$438,304	\$470,074	\$382,470	\$273,952	\$391,140	\$119,767	\$1,938,987	\$430,264	\$9,439,079	\$5,746,887	\$3,848,750
Sale of Goods	\$45,218	\$2,219	\$57,117	\$42	\$0	\$0	\$0	\$5,053	\$11,834	\$186,227		
Exemption for sale of goods	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$29,668		
Deduction for sale of goods	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$35,076	\$0	
Medicare Deduction 7-9-77.1										\$0	\$1,584,996	-\$1,584,996
Practitioner Deduction	\$735,399	\$264,314	\$316,315	\$45,901	\$164,371	\$46,937	\$14,372	\$89,382	\$53,052	\$1,946,364	\$864,253	\$1,082,111
Universal/Special deduction for services								\$1,112,795		\$3,111,996	\$0	\$3,111,996
Net Taxable	\$490,266	\$176,209	\$210,876	\$336,611	\$109,581	\$344,203	\$105,395	\$741,863	\$389,046	\$4,567,579	\$2,643,388	\$1,924,192
State Tax Rate	4.395%	4.038%	3.915%	4.182%	4.282%	4.196%	3.680%	4.050%	3.951%	3.049%		
State Revenue	\$21,549	\$7,116	\$8,256	\$14,078	\$4,692	\$14,444	\$3,878	\$30,046	\$15,373	\$173,076	\$85,808	\$87,268
Local Option Rate	3.141%	3.141%	3.141%	3.041%	2.986%	2.976%	3.223%	3.177%	3.209%	2.081%		
Local Revenue	\$15,400	\$5,535	\$6,624	\$10,236	\$3,272	\$10,245	\$3,397	\$23,572	\$12,483	\$117,834	\$82,673	\$35,161
Hold Harmless	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$24,351	-\$24,351
Net State Revenue	\$21,549	\$7,116	\$8,256	\$14,078	\$4,692	\$14,444	\$3,878	\$30,046	\$15,373	\$173,076	\$61,457	\$111,620
Net Local Revenue	\$15,400	\$5,535	\$6,624	\$10,236	\$3,272	\$10,245	\$3,397	\$23,572	\$12,483	\$117,834	\$107,024	\$10,810
Current Law State Revenue	\$14,308	\$8,582	\$7,508	\$6,663	\$4,295	\$10,862	\$1,260	-\$4,260	\$12,239	\$61,457		
Current Law Local Revenue	\$26,520	\$12,084	\$12,470	\$8,390	\$3,610	\$8,678	\$2,883	\$22,384	\$10,005	\$107,024		
Total change	-\$3,879	-\$8,015	-\$5,098	\$9,260	\$60	\$5,148	\$3,132	\$35,494	\$5,612	\$122,429		\$122,429
Effective State Tax Rate	1.758%	1.615%	1.566%	3.680%	1.713%	3.693%	3.238%	1.546%	3.477%			
Effective Local Tax Rate	1.256%	1.256%	1.256%	2.676%	1.194%	2.619%	2.836%	1.213%	2.824%			
Current Law State Tax Rate	1.943%	2.639%	2.103%	2.279%	1.700%	2.923%	1.844%	0.000%	2.777%			
Current Law Local Tax Rate	1.388%	2.053%	1.687%	1.657%	1.185%	2.073%	1.615%	0.932%	2.255%			