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

**SPONSOR** McQueen **ORIGINAL DATE** 2/1/2020 **LAST UPDATED** **HB** 174

**SHORT TITLE** Custodial Memory Care Facility Gross Receipt **SB**

**ANALYST** Torres

## REVENUE (dollars in thousands)

| Estimated Revenue | | | | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|---|---|
| FY20 | FY21 | FY22 | FY23 | FY24 | | |
| $0 | ($420.0) | ($430.0) | ($440.0) | ($460.0) | Recurring | General Fund |
| $0 | ($280.0) | ($290.0) | ($300.0) | ($310.0) | Recurring | Local Governments |

(Parenthesis ( ) Indicate Revenue Decreases)

**SOURCES OF INFORMATION**
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

No Response Received
Human Services Department (HSD)
Department of Health (DOH)

**SUMMARY**

Synopsis of Bill

House Bill 174 (HB 174) amends Section 7-9-4.3 NMSA 1978, clarifying that a residential facility designed and used for providing custodial memory care for people living with advanced dementia is exempt from governmental gross receipts tax (GGRT) because it is an exempt entity licensed by the New Mexico Department of Health (DOH). This bill also creates a gross receipt tax (GRT) exemption for a health care provider from payments received for custodial memory care services and persons that help operate residential facilities designed and used for providing custodial memory care. The effective date of this bill is July 1, 2020. There is no delayed repeal date but LFC recommends adding one.

## FISCAL IMPLICATIONS

According to analysis from the Taxation and Revenue Department (TRD), the annual estimated impact in the tables above is exclusive to the creation of the gross receipts tax (GRT) exemption for custodial memory care services. This is because TRD reports that custodial memory care facilities often qualify for a type 2 nontaxable transaction certificate and are currently tax exempt. Therefore, no fiscal impact is expected from the second part of HB 174 clarifying this existing governmental gross receipts tax (GGRT) exemption.

TRD's analysis uses RP-80 data from TRD's system of record (GenTax), and the Congressional Budget Office reports to forecast an annual increase in long-term care services. Furthermore, TRD's impact analysis assumes only a portion of the total RP-80 North American Industry Classification System (NAICS) code 623210, Residential Intellectual and Development Disability Facilities, to exclude the other components in the industry that would not qualify for the credit.

The bill creates a tax expenditure with a cost difficult to determine. Tax expenditures narrow the tax base, increase revenue volatility, and may require increases in taxes in other areas, a reduction in governmental services, or both.

## SIGNIFICANT ISSUES

The Congressional Budget Office reports that 1.3 percent of United States gross domestic product is accounted for by long term care services and is forecasted to increase. The Family Caregiver Alliance reports that one out of five seniors will incur $25 thousand or more in out of pocket health costs for long-term elder care.

Exempting custodial memory care facilities from the gross receipts tax may reduce the cost of care for patients and their financial supporters. It may also increase access for potential patients and provide a public good.

Facilities often provide services for patients with different conditions related to elder care. Cost segregation between custodial memory care and patients with unrelated conditions may be problematic for facilities attempting to utilize the new GRT exemption.

**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

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

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

| LFC Tax Expenditure Policy Principle | Met? | Comments |
|---|---|---|
| **Vetted** | ✘ | |
| **Targeted** | | |
| Clearly stated purpose | ? | No purpose, targets or goals established. |
| Long-term goals | ✘ | |
| Measurable targets | ✘ | |
| **Transparent** | ? | TRD will likely present an annual cost estimate in its tax expenditure reports. |
| **Accountable** | | |
| Public analysis | ✘ | The bill does not contains provisions for reporting. |
| Expiration date | ✘ | The bill does not include expiration dates. |
| **Effective** | | |
| Fulfills stated purpose | ? | There is no purpose statement or measurable goals and targets to determine if the exemption fulfills intended outcomes. |
| Passes "but for" test | ? | |
| **Efficient** | ? | Without purpose statement, goals, or targets, it is not possible to determine if the exemption is the most efficient means of achieving a desired outcome. |
| Key: ✓ Met ✘ Not Met ? Unclear | | |

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