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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>  SHPAC  </u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>  3/8/2023  </u>
<b>SHORT TITLE</b> <u>  Non-Emergency Medical Transportation  </u>	<b>BILL</b> <u>  CS/Senate Bill  </u>
	<b>NUMBER</b> <u>  485/SHPACS  </u>
	<b>ANALYST</b> <u>  Dick-Peddie  </u>

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal			General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Public Regulation Commission (PRC)

Human Service Department (HSD)

## SUMMARY

### Synopsis of SHPAC Substitute for Senate Bill 485

The Senate Health and Public Affairs Committee substitute for Senate Bill 485 amends the Transportation Network Company Services Act to further expand Uber and Lyft’s exclusion from the provisions of the Motor Carrier Act specifically for the additional provision of non-emergency medical transportation Services, including for Medicaid recipients.

The legislation provides a definition for the “state's Medicaid program” as a state program acting to leverage federal benefits for state residents pursuant to Title 19 or Title 20 of the federal Social Security Act; and a "transportation broker" as an entity under contract with the medical assistance division of the Human Services Department or a managed care organization that manages transportation benefits under the state's Medicaid program.

The effective date of this bill is July 1, 2023.

## FISCAL IMPLICATIONS

The Human Services Department (HSD) notes the Medicaid program provides the lowest cost

form of transportation for medically necessary transportation for Medicaid clients to get services. The Medicaid program is estimated to spend about \$59.3 million (including \$12.6 million in general fund revenue) on non-emergency transportation services in FY24. HSD notes it will likely need federal approval to implement the bill, but it is difficult to estimate how introducing transportation network companies may alter Medicaid reimbursement for non-emergency transportation services for Medicaid recipients.

## SIGNIFICANT ISSUES

The Public Regulation Commission (PRC) notes there are currently 50 motor carriers authorized to provide non-emergency medical transportation services in New Mexico, all of which are subject to the Motor Carrier Act. The PRC is not aware of how many of these motor carriers are also contracted with the Human Services Department (HSD) to provide transport for Medicaid recipients.

The PRC provides additional context about the complexity of changing these motor carrier regulations:

In 2016, the Transportation Network Company Services Act (Sections 65-7-1 to -22; HB168 (2016)) (“TNC Act”) authorized Transportation Network Companies (“TNC”s ‘Uber’ and ‘Lyft’) to provide passenger transportation services that were excluded from the provisions of the Motor Carrier Act. The passenger services contemplated in this exclusion are the equivalent of taxi, shuttle and limousine services that are otherwise regulated under the Motor Carrier Act. Critically, the provision of passenger services under the TNC Act and the Motor Carrier Act is the same.

Motor carriers objected to the enactment of the TNC Act as unfair. Since the TNC Act’s inception, motor carriers regulated under the Motor Carrier Act have adopted the mechanisms and structures of TNCs: using digital networks (on-line prearrangement of rides) for passenger transports in vehicles leased by the company to its contracted drivers. This is permissible under the Motor Carrier Act and may allow local companies to better compete against the TNCs. However, this development has further blurred the distinction between the two regulatory schemes for the provision of passenger services in the state.

Uber recently applied to the PRC for authority to provide non-emergency medical transportation services. Uber stated in its application that TNCs and TNC drivers “shall not be subject to the Motor Carrier Act ... or deemed to provide any transportation service as defined in the Motor Carrier Act.” This is provided in Section 65-7-3 of the TNC Act. Following this statutory exclusion, and ignoring the original intent of the TNC Act, the TNCs would be excluded from all Motor Carrier Act requirements, including those for ambulance services and specialized passenger services (here, non-emergency medical transportation services). Utilizing two separate statutory schemes for the provision of the same passenger services is increasingly complicated for the PRC.

Under the Motor Carrier Act, transportation providers can protest and object to new applications that may intrude on their certified full-service territories and operations. Section 65-2A-13. Under SB485, the TNCs could expand into these territories and operations and compete without the opportunity for existing carriers to protest. Existing motor carrier operations may suffer.

Further, both HSD and PRC note that Motor Carrier Act driver and vehicle safety requirements, including inspections, would not apply under Senate Bill 485.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The PRC notes that given Uber’s current application to provide non-emergency services, “the issue of whether the TNC Act, as currently written, allows for TNCs to provide non-emergency medical transportation services as an exclusion from the Motor Carrier Act provisions may be addressed by the NM Supreme Court, instead of by the Legislature.”

ADP/al/ne/rl/mg