BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 18, 2025

Bill: SB-295 **Sponsor:** Senators Jeff Steinborn, Carrie Hamblen, William E. Sharer, Craig W. Brandt, and Martin Hickey

Short Title: Gross Receipts Tax Changes

Description: This bill amends Section 7-9-93 NMSA 1978 to permanently expand the scope of receipts that may be deducted under that section. It also adds a new Section 7-9-93.1 NMSA 1978 to allow an additional deduction for services within the scope of practice that are not currently deductible under Section 7-9-93 NMSA 1978, excluding receipts from providing medical services under Medicaid, as well as allowing the deduction of receipts for the sale of medical equipment, supplies or drugs sold to a health care practitioner or association of health care practitioners if the items are regularly used in the treatment of patients within the practice. A new section is also added to the Public Assistance Act to provide that when a health care provider receives Medicaid reimbursement for providing health care services, the provider will also be reimbursed for all applicable gross receipts.

Effective Date: July 1, 2025

Taxation and Revenue Department Analyst: Lucinda Sydow and Pedro Clavijo

Estimated Revenue Impact*					R or	
FY2025	**FY2026**	**FY2027**	**FY2028**	**FY2029**	**NR****	**Fund(s) Affected**
--	($59,600)	($62,000)	($64,400)	($67,000)	R	Section 1: General Fund
--	($81,100)	($84,300)	($87,800)	($91,200)	R	Section 1: Local Governments
--	($21,600)	($19,100)	($16,700)	($14,100)	R	Section 1: General Fund – Hold Harmless distributions under 7-1-6.46 and 7-1.6.47 NMSA 1978
--	$21,600	$19,100	$16,700	$14,100	R	Section 1: Local Governments – Hold Harmless distributions under 7-1-6.46 and 7-1.6.47 NMSA 1978
--	($1,100)	($1,100)	($1,100)	($1,100)	R	Section 2: General Fund
--	($1,400)	($1,500)	($1,500)	($1,600)	R	Section 2: Local Governments
--	($491,200)	($504,100)	($517,600)	($531,400)	R	Section 3: General Fund
--	**($60,900)**	**($66,700)**	**($72,600)**	**($78,700)**	**R**	**Total Local Governments**
--	**($573,500)**	**($586,300)**	**($599,800)**	**($613,600)**	**R**	**Total General Fund**

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: [Section 1:] This bill expands the current gross receipts tax (GRT) deduction under 7-9-93 NMSA 1978 for certain health receipts to fee-for-service payments and

for any out-of-pocket payments by patients made directly to the provider. (Note that deductibles and co-payments are already deductible. The new deductible would apply to payments outside of any insurance plan or managed care plan.) Although a precise fiscal impact would require crucial unknown information like the number and type of services provided as well as the corresponding fee, the Taxation and Revenue Department (Tax & Rev) benchmarked a fiscal impact based on minimal assumptions. Tax & Rev used data from the RP80 GRT report and retrieved taxable GRT by NAICS codes in the associated health practitioner fields to identify the proportion of taxpayers that might claim the deduction. Then, Tax & Rev used data from the Centers for Medicare & Medicaid Services on private health expenditures in New Mexico, 1991-2020,[1] to estimate the tax base. The fiscal impact was grown using the average annual percentage growth of private health expenditures from 1991 to 2020 and the statewide effective GRT rate was applied to the forecast for the outlook. The fiscal impact includes the effects of this deduction on the distributions to municipalities pursuant to Section 7-1-6.4 NMSA 1978 as the majority of the taxable base will be in municipalities. The fiscal impact also accounts for the impact of the hold harmless payments to municipalities and counties per Sections 7-1-6.46 and 7-1.6.47 NMSA 1978 under the benchmark fiscal impact.

[Section 2:] The bill provides deductions related to gross receipts for healthcare practitioners' medical equipment, supplies, and drug purchases. Tax & Rev used data from the RP80 GRT report and retrieved taxable GRT by NAICS codes to identify the taxpayers that might claim the deduction for selling medical equipment and drugs to health care practitioners. Tax & Rev assumed this deduction does not apply to the sale of medical equipment and drugs to hospitals, so the contribution of hospitals to the industry was deducted from the associated tax base for this deduction. The revenue impact also assumed that the taxable sales of medical equipment and drugs to the public is marginal; therefore, those sales were ignored. Finally, Tax & Rev interpreted the language to mean that the medical equipment must be used during the course of treatment by the medical professional, and not simply sold on to the patient. The fiscal impact was grown using S&P's current price index of consumer spending on healthcare and based on the statewide effective GRT rate with a split between the general fund and local governments. The fiscal impact includes the effects of this deduction on the distributions to municipalities pursuant to Section 7-1-6.4 NMSA 1978 as the majority of the taxable base will be in municipalities.

[Section 3:] The bill provides that health care providers receiving Medicaid reimbursement will be compensated for all applicable gross receipts taxes they are required to pay. (See Technical Issues.) Tax & Rev used data from the Health Care Authorities (HCA) September 2024 forecast to determine the aggregate spending for services subject to GRT in FY2024. These services include fee-for-service, services for Medicaid recipients on the Traditional and MI VIA waivers (See Other Issues) and services paid through managed care. Under fee-for-services, Tax & Rev removed categories that are not subject to GRT, such as federal and Indian Health Services hospital services. For direct payments under managed care, Tax & Rev assumed that 85% of the managed care capitations are for direct medical services (also known as Medical Loss Ratio). Per HCA, the current percentage is at 90% under Turquoise Care which is higher than the federal required 85%[2][3]. Tax & Rev assumed 85% as the portion of direct health care services, as the Turquoise Care 90% includes quality improvement expenditures which may not always be direct health care services for Medicaid recipients. Tax & Rev then removed the GRT portion from both fee-for-service and managed care to arrive at the base expenditures for services. This base was grown by S&P's forecasted consumer spending index through the forecast outlook. Tax & Rev applied a statewide effective GRT rate to the tax base to arrive at the total reimbursement amount.

Policy Issues: The US health system has been facing significant challenges related to persistent

[1] https://www.cms.gov/data-research/statistics-trends-and-reports/national-health-expenditure-data/state-residence
[2] HCA: "LFC: Rate Increases & Medicaid Performance", May 15, 2024 presentation to LFC
[3] 2024-2025 Medicaid Managed Care Ra https://www.medicaid.gov/medicaid/managed-care/downloads/2024-2025-medicaid-rate-guide-01222024.pdfte Development Guide

workforce shortages and severe fractures in the supply chain for drugs and equipment, which have increased health services costs for patients. New Mexico is not detached from these challenges. The State has implemented a series of social and tax policies to improve healthcare coverage and attract healthcare workers while reducing healthcare practitioners' financial constraints.

While tax incentives can support specific industries or promote desired social and economic behaviors, the growing number of such incentives complicate the tax code. Introducing more tax incentives has two main consequences: (1) it creates special treatment and exceptions within the code, leading to increased tax expenditures and a narrower tax base, which negatively impacts the general fund; and (2) it imposes a heavier compliance burden on both taxpayers and Tax & Rev. This proposal adds an additional deduction to Sections 7-9-77.1 and 7-9-93 NMSA 1978 increasing complexity for taxpayers and the administration of the tax code. Increasing complexity and exceptions in the tax code is generally not in line with sound tax policy.

The National Institute of Health's (NIH), National Center for Biotechnology Information published a study that predicts that nationwide the demand for doctors will outpace the supply so that by 2030, 34 of 50 states will have physician shortages.[4] This shortage is more prominent for states in the South and West regions of which Mississippi and New Mexico will have the severest shortage. Their study predicts a shortage of 2,118 physicians in New Mexico by 2030 due in part to a higher percentage of physicians over 60 years of age compared to other states. The study discusses solutions that reach nationwide including: increasing the number of medical school graduates; increasing equitable federal funding for graduate medical education (GME); attracting foreign-trained doctors; increasing utilization of mid-level providers and increasing uptake of emerging medical technology. Without a nationwide solution, New Mexico will continue to compete with other states for a smaller pool of physicians. It is unclear how the deductions and reimbursements of this bill will directly reduce patient costs and improve the present challenges the US health system faces. Furthermore, diverting resources from the general fund to allow almost every payment to a healthcare practitioner to be subject to a deduction from GRT implies tradeoffs that might limit the State's capacity to invest in expanding healthcare access.

New Mexico is one of the few states that taxes medical services, including those funded by Medicaid. Federal law though allows for federal match, federal financial participation, of the GRT that is included in payments to health care providers and in negotiated service rates paid through Managed Care[5]. So while medical professionals accepting patients in New Mexico under the Medicaid program must file GRT returns and pay the GRT, that GRT portion of the payment along with the service portion is subsidized by the federal FFP and state reimbursement match. In reimbursing health care providers for the GRT portion as proposed in Section 3 of the bill, the general fund loses revenue without compensation from a federal match. The GRT FFP subsidization allows for increased revenue to the state general fund which aids in increasing healthcare service rates to health care providers. Increasing the overall service rates to health care providers through appropriations to HCA would represent a more efficient use of state funds and make it more attractive for medical professionals to practice in New Mexico.

Technical Issues: [Section 3]: The proposal states on line 17, that the "health care provider shall be reimbursed . . ." but does not state by whom, or the source of those reimbursements.

Other Issues: [Sections 1 & 2]: The new deduction in Section 2, Subsection A seems duplicative with the current 7-9-93, except for the addition of certain healthcare providers, such as naturopathic doctors. Tax & Rev notes that the definition of "managed care health plan" differs between Section 7-9-93 NMSA

[4]Zhang X, Lin D, Pforsich H, Lin VW. Physician workforce in the United States of America: forecasting nationwide shortages. Hum Resour Health. 2020 Feb 6;18(1):8. doi: 10.1186/s12960-020-0448-3. PMID: 32029001; PMCID: PMC7006215., https://pmc.ncbi.nlm.nih.gov/articles/PMC7006215/

[5] New Mexico Human Services Department, DAB No. 787 (1986)

1978 and the new proposed Section 7-9-93.1 NMSA 1978 without clear understanding as to why. In addition, the definitions in Section 2 for the following words are not needed as they are not referenced in the new deduction section: "copayment", "deductible", "health care insurer", "managed care health plan", and "managed care organization". Tax & Rev suggest for clarity in the tax code that the new material in Section 7-9-93 NMSA 1978 be included under the new Section 7-9-93.1 so that all the deductions under 7-9-93 are for services under commercial contract services and all the deductions under Section 7-9-93.1 NMSA 1978 are for services not covered under commercial contract services, and that all definitions be reconciled.

[Section 3]: Tax & Rev notes that there are no definitions of "health care provider" and "health care services" under Section 3. As noted in the revenue impact, certain populations of Medicaid recipients receive a variety of special needs services which may or may not fall under the intended scope of Section 3. These terms may further clarification and definition to establish the scope of the reimbursement.

Administrative & Compliance Impact: Tax & Rev will need to update forms, instructions, and publications. Implementing this bill will have a low impact on Tax & Rev's Information Technology Division (ITD), approximately 220 hours or about one and a half months and $14,661 of staff workload costs.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
$14.6	--	--	$14.6	NR	ITD - Staff workload costs

* In thousands of dollars. Parentheses ( ) indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).