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FISCAL IMPACT REPORT

SPONSOR Jennings DATE TYPED 1-30-04 HB _____

SHORT TITLE Health Practitioner Service Gross Receipts SB 179

ANALYST Neel

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05				
(37,000.0)	(39,500.0)	(42,000.0)	Recurring	General Fund
*	*	*	Recurring	Municipalities
(2,600.0)	(2,800.0)	(3,000.0)	Recurring	Counties

(Parenthesis () Indicate Revenue Decreases)

Relates to:

HB 17, Certain Health Care Services Gross Receipts
 HB 80, Gross Receipts in Health Provider Contracts
 HB 154, Health Practitioner Services Gross Receipts

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 Health Policy Commission (HPC)
 Department of Health (DOH)
 Human Services Department (HSD)

SUMMARY

Synopsis of Bill

Senate Bill 179 amends statute to enact a new section of the Tax Administration Act and would provide a deduction from gross receipts taxation for eligible licensed health practitioners for

payments received for the commercial portion of contract services provided by that practitioner. This deduction is limited to commercial service payments, and expressly excludes managed care payments under Medicare, Medicaid and the State Children's Health Insurance Program (SCHIP).

SB 179 also provides a distribution to municipalities from gross receipts taxes as an offset for the GRT deductions by licensed health practitioners within the municipality allowed by Section 2 of the bill. Section 1 provides a formula for calculating the amount of reimbursement ("deductions claimed... by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus [1.225%].")

Health care practitioner is defined in SB 179 to include chiropractic physicians, dentists, dental hygienists, physicians, physician assistants, osteopathic physicians, osteopathic physician assistants, doctors of oriental medicine, podiatrists, psychologists, registered nurses, licensed practical nurses, registered lay midwives, optometrists, occupational therapists, respiratory care practitioners, speech language pathologists and clinical laboratories

Significant Issues

HSD's Office of General Counsel has considered the potential impact of 42 U.S.C. § 1396b(w) if SB 179 were enacted, and concludes that § 1396b(w) would not be implicated. That section provides that, for purposes of determining the amount of federal payment for medical assistance, the calculation of the state's expenditures will be reduced by the amount of revenue the state received from "health care related taxes" and most "broad-based health care related taxes." OGC concludes that in exempting Medicare and Medicaid MCO payments to practitioners from GRT deductibility, SB 179 would not create a distinction of a type that would give rise to an (effective) health care related tax

The Department of Health notes that many health care providers in New Mexico have identified gross receipts taxation on health care revenues as a double taxation from a single revenue stream. This provision makes NM less attractive to health professionals than other states that do not have double taxation. SB 179 would address that concern by eliminating, for selected health care practitioners, tax liability on some health care revenues. Provisions in SB 179 would allow additional tax revenues to go to municipalities to offset lost gross receipts. Not all behavioral health practitioners would benefit from SB 179 as only psychologists are included in the list of behavioral health care practitioners.

FISCAL IMPLICATIONS

* In determining the fiscal impact TRD notes that SB 179 intends to maintain municipal distributions at the same level as under current law. ***However, for the amendments to work, it is critical that health practitioners report the exact amount of all deductions attributable to each location.*** If all health practitioners report correctly, the provisions contained in this bill will accomplish their purpose. However, as with most changes in tax law, reporting behavior can be irregular. For example, some taxpayers may treat deductions (which are required to be reported) as exemptions that are not subject to reporting requirements. The actual impact on a specific municipality's gross receipts tax revenue is unpredictable.

Under this proposal, municipal distributions are calculated on a base that includes the value of the proposed health care deductions. This change is not accompanied by a corresponding increase in the overall state gross receipts tax rate. Thus municipal compensation is financed with foregone state general fund revenue.

ADMINISTRATIVE IMPLICATIONS

TRD notes that the effective date of SB 179 may not give the agency adequate time to reprogram its systems to adequately administer the program.

Other bills that propose similar deduction-reporting schemes for the purpose of calculating local government offsets impose stiff penalties for under-reporting deduction amounts. A similar provision should be included in this bill because it is critical that the exact amount of all deductions attributable to each location be reported correctly in order for the offset provision to work effectively

POSSIBLE AMENDMENTS

DOH notes that SB 179 does not include behavior health care practitioner and suggests the following amendment:

On Page 4, after line 15 and before line 16 add “Licensed Independent Social Workers, Licensed Professional Clinical Counselors and Licensed Alcohol and Drug Abuse Counselors.”

SN/lg