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

		ORIGINAL DATE	2/22/07		
SPONSOR	Arnold-Jones	**LAST UPDATED**	3/06/07	**HB**	958/aHTRC
SHORT TITLE	Unpaid Health Services Gross Receipts			**SB**	
				ANALYST	Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	($800.0)	($1,770.0)	Recurring	General Fund
	($550.0)	($1,180.0)	Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB 187

SOURCES OF INFORMATION
LFC Files
New Mexico Medical Society

Responses Received From
Department of Health (DOH)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 958 restricts the gross receipts tax deduction created in the bill to the value of services that remain unpaid after one year. In the original bill, the credit could be taken for services unpaid after just 90 days.

Synopsis of Original Bill

House Bill 958 creates a phased-in gross receipts tax credit that may be claimed by a medical doctor or licensed osteopathic physician for the value of unpaid medical care services provided while on call to a hospital. In FY08, a taxpayer's credit amount will equal 33 percent of the value of those unpaid services. In FY09, the credit will be equal to 67 percent of that value, and in FY10 and beyond, the credit will be for the full value.

The value of qualified services will be the amount charged for the services and may not exceed 130 percent of the reimbursement rate for the services under the Medicaid program.

To qualify for the credit, medical services must remain unpaid after ninety days from the date of billing and must meet the following criteria: the services must have been provided to a person without health insurance or whose health insurance would not cover the services who was not eligible for Medicaid. The services must also not be reimbursable under a program established in the Indigent Hospital and County Health Care Act (Chapter 27, Article 5 NMSA 1978).

The effective date of these provisions is July 1, 2007.

FISCAL IMPLICATIONS

A study by the Legislative Health and Human Services Committee entitled, "House Bill 955: Comprehensive Study on Health Care and Health Care Costs in New Mexico," stated that in 2002, the New Mexico Hospital Association reported total uncompensated care of $209 million. Growing that figure by 7 percent per year, the rate of medical inflation, yields an estimate of $313.7 million total uncompensated care in FY08. The New Mexico Medical Society reports that only 300 physicians would likely be eligible for the proposed gross receipts tax credit based on the assumption that only surgeons are normally on call.

TRD estimates that the credit will be equal to about $35 thousand per physician, for a total credit amount of $10.5 million. However, TRD believes that tax liability for these 300 physicians will only be about $13.2 thousand, or a total of $3,630 thousand. TRD assumes the credit will be nonrefundable, so the fiscal impact will be capped at $3,630 thousand (see Technical Issues).

The fiscal impact of the bill is expected to phase in over a few years because services must remain unpaid for one year to receive the proposed credit.

About 60 percent of each year's fiscal impact is expected to impact the general fund, while the remaining 40 percent will impact local governments. The fiscal impact is expected to grow by about 7 percent per year.

SIGNIFICANT ISSUES

According to DOH, the New Mexico Medical Society identified reducing gross receipts taxation on health services and reducing the burden of uncompensated care for indigent patients as areas of concern for health practitioners in New Mexico. This bill addresses these concerns by allowing physicians to reduce gross receipts tax liability in proportion to the amount of uncompensated care they provide.

According to DOH, about 21 percent of New Mexicans are uninsured. In 2002, the National Center for Health Workforce Analysis documented that 32.5 percent of New Mexicans live in areas with a shortage of primary health care professionals. Currently, 31 of New Mexico's 33 counties are designated as health professional shortage areas for primary care physicians.

LFC notes that while individual credits against the gross receipts tax may have small fiscal impacts, their cumulative effect significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue.

LFC notes that receipts of health practitioners have historically grown faster than receipts of other industries. Removing receipts from high-growth sectors from the gross receipts tax base makes it more difficult for tax revenue to keep pace with inflation.

The bill will reduce local government gross receipts tax collections. Many of New Mexico's local governments are highly dependent on gross receipts tax revenue.

PERFORMANCE IMPLICATIONS

According to DOH, the bill is consistent with goals one and six in chapter two of the FY08 Comprehensive Strategic Health Plan. Goal one relates to increasing the number of health care providers through recruitment and retention strategies, while goal six relates to improving health care and human services by investing in workforce development and infrastructure.

ADMINISTRATIVE IMPLICATIONS

TRD reports that up to 3 FTE will be required to process the credit because thousands of claims will have to be processed manually. Instructions and publications will require revision and taxpayers and employees will require education.

Determining the allowable credit will require a high level of audit and compliance efforts. TRD auditors will need to determine maximum reimbursement rates, whether a doctor was on-call, whether services were performed in a hospital rather than a physician's office, whether the service recipient was eligible for Medicaid, and whether 90 days has passed since billing.

REATIONSHIP

House Bill 958 relates to Senate Bill 187, which provides the same credit for unpaid medical services but does not phase the credit in over three years. In Senate Bill 187, a credit of 100 percent of the value of eligible services may be claimed starting in FY08.

TECHNICAL ISSUES

The bill does not clarify whether or not the gross receipts tax credit created is refundable or not. TRD reports that in the absence of refundability language it will be presumed to be nonrefundable. If this presumption is successfully challenged, credit claims could be as large as the entire gross receipts tax base for the credit, which was estimated to be $47 million (see Fiscal Implications).

The bill does not clearly define the terms "on-call" or "hospital."

DOH recommends clarifying the definition of "qualified health care services" to limit the credit to uncompensated care provided in hospital clinics and emergency rooms by physicians with staff privileges.

TRD suggests adding a recapture provision in the event that a physician receives payment for services after claiming the credit.

TRD notes that Section 7-9-67 NMSA 1978 allows taxpayers reporting on an accrual accounting basis to claim a deduction for uncollectible receipts. The bill would allow physicians that report on an accrual basis to request a deduction and claim the credit, while cash basis physicians would only be eligible for the credit.

SS/mt