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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/22/09

SPONSOR Heaton LAST UPDATED \_\_\_\_\_ HB 116

SHORT TITLE Orthotic and Prosthetic Care Gross Receipts SB \_\_\_\_\_

ANALYST Gutierrez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	(\$46.0)	(\$48.2)	Recurring	Local Governments
	(\$362.6)	(\$394.4)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB 58, HB 61, HB129, HB179, and HB203

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Department of Health (DOH)

Human Services Department (HSD)

Health Policy Commission (HPC)

### SUMMARY

#### Synopsis of Bill

House Bill 116 adds orthotists and prosthetists to the list of eligible health care providers who currently have a gross receipts tax deduction for provision of services to Medicare beneficiaries (Section 7-9-77.1 NMSA 1978) and to the list who currently have a gross receipts tax deduction for services reimbursed by managed care (Section 7-9-93 NMSA 1978) and it makes orthotists and prosthetists eligible for the rural health care practitioner tax credit.

The provisions of the bill will be effective on July 1, 2009.

### FISCAL IMPLICATIONS

#### **Gross Receipts Deduction - Medicare beneficiaries:**

The gross receipts tax (GRT) deduction for provision of services to Medicare beneficiaries will

affect both local governments and the General Fund. According to TRD, approximately 70 New Mexico healthcare practitioners are certified by the American Board for Certification in Orthotics, Prosthetics, and Pedorthics. This estimate also uses data from the Centers for Medicare & Medicaid Services, Office of the Actuary, National Health Statistics Group and Mathematica’s June 19, 2007, report “Quantitative and Comparative Analysis of Reform Options for Extending Health Care Coverage in New Mexico” and it assumes an average GRT rate of 7.07%. The amendments to Section 7-9-77.1 NMSA 1978 included in this bill are expected to reduce gross receipts tax by \$98.8 thousand in FY10. About 53 percent of this revenue loss will accrue to the general fund, while 47 percent will be to local governments.

**Gross Receipts Deduction – Managed Care:**

TRD believes taxable gross receipts for orthotists and prosthetists for managed care will be \$4.1 million in FY10. This estimate assumes an average GRT rate of 7.07% and a growth rate of 10%. Therefore the fiscal impact to the general fund from the amendments to Section 7-9-93 NMSA 1978 is estimated to be \$289.8 thousand in FY10. This impact includes the direct impact of making these orthotist and prosthetist receipts deductible, as well as the impact of holding local governments harmless from the new deductions.

**Rural Health Care Practitioner:**

Approximately 70 New Mexico healthcare practitioners are certified by the American Board for Certification in Orthotics, Prosthetics, and Pedorthics. Approximately 10 of these individuals practice in areas of New Mexico that have insufficient health care services for other medical specialties and thus likely have insufficient orthotic and prosthetic health care services and would be eligible for the rural health care practitioner tax credit. The amendment to Section 7-2-18.22 NMSA 1978 included in this bill would allow orthotists and prosthetists to be eligible for a tax credit of up to \$5,000 per year. Thus, the FY10 impact to general fund would be \$20,000. This estimate assumes an annual growth rate of 2 percent.

Total fiscal impacts of all three sections of the bill are reflected in the revenue table on page 1 of this analysis.

**SIGNIFICANT ISSUES**

For purposes of both of these statutory changes, an orthotist and prosthetist means a person “certified by the American Board of Certification in orthotics, prosthetics and pedorthics who develops and implements orthotic or prosthetic care plans pursuant to a prescription from a physician, osteopathic physician or other health care practitioner with prescriptive authority”.

DOH:

The proposed expansion of RHCPTCP eligibility would provide orthotists and prosthetists up to a \$5,000 per year tax credit—the same level provided to health care practitioners with doctoral-level training required for their licensure. This is not consistent with the level of tax credit provided to other non-doctoral level professions eligible under the program, who can receive up to \$3,000 per year.

LFC notes that while individual deductions from 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.

### ADMINISTRATIVE IMPLICATIONS

This bill will have a moderate impact on TRD. Minor changes to existing forms, instructions and publications related to the CRS and PIT programs and related credits. Minor changes to the income tax forms and instructions for 2009. However, with the increase in the number of qualifying taxpayers, partial additional FTE (depending upon how many additional taxpayers will qualify) would be needed to accommodate the manual processes related to tracking, auditing and monitoring the credit claims.

### RELATIONSHIP

House Bill 116 relates to:

- SB58, HB129, and HB203 which would modify Section 7-2-18.22 NMSA 1978, the statute authorizing the Rural Health Care Practitioner Tax Credit Program (RHCPTCP) to expand the type of practitioner eligible for qualification under the Program.
- HB61 and HB179 expand the definition of “health care underserved area” and “rural”.

BLG/mt

***The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:***

1. ***Adequacy:*** revenue should be adequate to fund government services.
2. ***Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
3. ***Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
4. ***Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
5. ***Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

***More information about the LFC tax policy principles will soon be available on the LFC website at [www.nmlegis.gov/lcs/lfc](http://www.nmlegis.gov/lcs/lfc)***