

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 4

51st Legislature, 1st Session, 2013

Tracking Number: .190630.2

Short Title: Dialysis Facility Gross Receipts

Sponsor(s): Senator Carlos R. Cisneros

Analyst: Ian Kleats

Date: February 19, 2013

Bill Summary:

SB 4 amends a section of the *Gross Receipts and Compensating Tax Act* to provide a deduction from gross receipts for certain dialysis services to Medicare beneficiaries. Among its other provisions, the bill would:

- define dialysis facility as an end-stage renal disease facility; and
- phase in the deduction over the course of three fiscal years:
 - 33 and 1/3rd percent of receipts may be deducted in FY 14;
 - 66 and 2/3rd percent of receipts may be deducted in FY 15; and
 - 100 percent of receipts may be deducted in FY 16 and thereafter.

Fiscal Impact:

SB 4 does not contain an appropriation. The estimated revenue impact is illustrated in the table below, adapted from the analysis by the Taxation and Revenue Department (TRD).

Estimated Revenue Impact*				R or NR**	Fund(s) Affected
FY 13	FY 14	FY 15	FY 16		
0	(340)	(700)	(1,100)	R	General Fund
0	(280)	(590)	(920)	R	Local Governments

* In thousands of dollars. Parentheses () indicate a revenue loss.

** Recurring (R) or Non-Recurring (NR).

LESC staff defer to the estimate provided by the TRD in its bill analysis. However, data provided by the Human Services Department (HSD) bill analysis suggests that TRD could be underestimating the fiscal impact.

- Based on the HSD analysis, even after revising its analysis to suggest that almost 30 percent of dialysis patients are covered by private insurance and not Medicare, the service for roughly 1,633 dialysis patients would still qualify for the deduction.
- Assuming an average annual Medicare payment of \$25,725 for dialysis, as HSD suggests, the amount of deductible receipts would reach approximately \$42.0 million annually, resulting in approximately \$2.86 million of foregone revenue.

Fiscal Issues:

The estimated fiscal impact of SB 4 could reduce General Fund revenue by approximately \$1.1 million in FY 16 and each year thereafter.

Based on *General Appropriation Act* appropriations for the last five years, the Legislature has appropriated approximately 43.5 percent of General Fund revenue for public education. The reduction of revenue from the General Fund as proposed in this bill could result in decreased annual appropriations of \$480,000 for public education.

Substantive Issues:

The HSD analysis notes that when the federal Medicare program makes payment to a dialysis facility, it includes an additional amount to cover state GRT. It might be implied that, should SB 4 become law, the federal government would reduce its Medicare reimbursements accordingly. Thus, it is unclear what benefit the provisions of SB 4 would afford: that is, the same services would be provided, but the net transfer of federal funds into state revenues might be diminished.

The social benefit of any tax expenditure should be judged relative to multiplier effects from the likely use of the foregone government revenue. General Fund appropriations comprise many diverse uses, with the largest proportion going to fund public education. Without strong evidence to the contrary, an assertion that this deduction has a social benefit larger than that associated with public education or any other governmental program might be considered speculative.

Moreover, New Mexico's State Equalization Guarantee education funding formula implies that over 40 percent of government revenue would be spread equitably across the state, impacting small rural communities in a proportionate level to larger urban communities. It is unclear whether this deduction could ensure the same equitable impact to all communities that public school funding would provide, even absent any discussion of the relative social benefit of the tax policy.

According to the Intermountain End-Stage Renal Disease Network, there are 41 end-stage renal disease facilities in New Mexico, which provide either transplant or dialysis services. Thirteen of those facilities are located in the greater Albuquerque metropolitan area, and the remainder serve other population centers geographically dispersed across the state.

Committee Referrals:

SCORC/SFC

Related Bills:

HB 153 *Dialysis Facility Services Gross Receipts* (Identical)