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

ORIGINAL DATE 02/07/14
SPONSOR Trujillo, J. **LAST UPDATED** ______ **HB** 262

SHORT TITLE Nonprofit Hospital Services Gross Receipts **SB** ______

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16	FY17	FY18		
	(9,000.0)	(9,400.0)	(9,700.0)	(10,000.0)	Recurring	General Fund
	(6,000.0)	(6,200.0)	(6,500.0)	(6,700.0)	Recurring	Local Governments
	(15,000.0)	**(15,600.0)**	**(16,200.0)**	**(16,700.0)**	**Recurring**	**Total**

Parenthesis ( ) indicate revenue decreases

Related to HB 207 - Health Care Practitioner Gross Receipts

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

House Bill 262 creates a new section of the Gross Receipts and Compensating Tax Act to make receipts of a health care practitioner from performing services for a nonprofit hospital pursuant to a contract with the nonprofit hospital may deductible from gross receipts.

The bill defines “health care practitioner” as:

- a chiropractic physician licensed pursuant to the Chiropractic Physician Practice Act;
- a dentist or dental hygienist licensed pursuant to the Dental Health Care Act;
- a doctor of oriental medicine licensed pursuant to the Acupuncture and Oriental Medicine Practice Act;
- a person licensed as an optometrist pursuant to the Optometry Act;
- an osteopathic physician licensed pursuant to Chapter 61, Article 10 NMSA 1978 or osteopathic physician assistant licensed pursuant to the Osteopathic Physician Assistants Act;

- a physical therapist licensed pursuant to the Physical Therapy Act;
- a physician or physician assistant licensed pursuant to Chapter 61, Article 6 NMSA 1978;
- a podiatrist licensed pursuant to the Podiatry Act;
- a psychologist licensed pursuant to the Professional Psychologist Act;
- a registered lay midwife registered by the department of health;
- a registered nurse or licensed practical nurse licensed pursuant the Nursing Practice Act;
- an occupational therapist licensed pursuant to the Occupational Therapy Act;
- a respiratory care practitioner licensed pursuant to the Respiratory Care Act;
- a speech-language pathologist or audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;
- a professional clinical mental health counselor, marriage and family therapist or professional art therapist licensed pursuant to the Counseling and Therapy Practice Act;
- an independent social worker licensed pursuant to the Social Work Practice Act; and
- a clinical laboratory accredited pursuant to 42 U.S.C. Section 263a but that is not a laboratory in a physician's office or in a hospital defined in 42 U.S.C. Section 1395x.

A "nonprofit hospital" is defined as a 501(c)(3) organization that provides emergency or urgent care, inpatient medical care and nursing care for acute illness, injury, surgery or obstetrics, including a facility licensed by the DOH as a critical access, general, long-term acute care, psychiatric, rehabilitation, limited services, and special hospital.

The effective date of the provisions of the bill is July 1, 2014. There is no sunset date. The LFC recommends adding a sunset date.

FISCAL IMPLICATIONS

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure’s fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

The TRD reports difficulty in estimating the cost of this tax expenditure, citing a lack of data on the amount of receipts that would become deductible under this bill. Instead, the department estimated the share of medical services that may be deducted under the bill as follows:

- Currently, receipts from sales of services to 501(c)(3) corporations are taxable. Receipts of health care practitioners are currently potentially deductible based on who pays the health care practitioner (Sections 7-9-77.1 and 7-9-93 NMSA1978). Other health care gross receipts, like deductibles and co-pays, are not deductible.

- Trying to estimate the amount of receipts from health care practitioner services provided under contract is particularly difficult. TRD has reported information on gross receipts and

taxable gross receipts for health care practitioners and amounts deducted under Section 7-9-93 NMSA 1978 are separately reported. Deduction amounts from Section 7-9-77.1 NMSA 1978 can be inferred, though they are not separately reported. Of the remaining taxable gross receipts, some portion is from services provided to non-profit hospitals that would become deductible under this bill. Estimating that percentage is where the difficulty lies.

- Health care practitioners for this deduction are defined similarly to Section 7-9-93 NMSA 1978 with the addition of clinical laboratories; a similar tax base is assumed. At FY13 levels of about $1.06 billion in deducted gross receipts and a statewide average GRT rate of 6.8 percent, Section 7-9-93 NMSA 1978 represents about $72 million in foregone GRT revenue.

- Because the deduction under Section 7-9-93 NMSA 1978 represents gross receipts from services paid for by managed care providers, and the proposed bill only covers services provided under contract to non-profit hospitals, which make up about 50 percent of total hospitals nationwide, according to the American Hospital Association, the deduction resulting from this bill is assumed to be much lower. However, assuming that the deduction would amount to even ten percent of Section 7-9-93 NMSA 1978, it would result in a deduction of more than $100 million in gross receipts and foregone revenue of over $7 million. In published financial statements, UNM hospital alone, reports FY13 expenditures of $33 million on purchased services, suggesting that system-wide expenditures on contract services by non-profit hospitals should be much greater than that. The foregone revenue is therefore conservatively estimated to be about $15 million and growing at the IHS Global Insight forecast growth rate of real consumer spending on health care.

For reference, although non-profit hospitals are largely exempt from filing GRT, hospitals reported over $490 million in taxable gross receipts out of about $1.6 billion in total gross receipts. If New Mexico non-profit hospitals follow the national trend and make up about 50 percent of total hospitals, a similar level of total gross receipts would be expected.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

TECHNICAL ISSUES

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

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