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

**SPONSOR** Smith **ORIGINAL DATE** 02/08/14 **LAST UPDATED** **HB**

**SHORT TITLE** Indigent Hospital & County Health Care Change **SB** 314

**ANALYST** Geisler

## REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|
| FY14 | FY15 | FY16 | | |
| | $18,200.0 | $18,200.0 | Recurring | Safety Net Care Pool Fund |

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to: SB 368/HB 350, SB 268, HB 349
Relates to Appropriation in the General Appropriation Act

## SOURCES OF INFORMATION
LFC Files

Responses Received From

Human Services Department (HSD)
Association of Counties

## SUMMARY

Synopsis of Bill

Senate Bill 314 would amend and repeal various sections of current statute to comply with federally approved changes to the Sole Community Provider Fund. As of December 31, 2013, that program was terminated and replaced by the Safety Net Care Pool.

Existing law provides for a county-imposed tax of seven-sixteenths percent of gross receipts in three increments of one-eighth of a percent and a final increment of one-sixteenth of a percent. The second one-eighth amount is to be dedicated to the support of indigent health care, deposited into the newly named "health care assistance" fund, and expended pursuant to the Indigent Hospital and County Health Care Act. Under new language proposed by this bill, a one-sixteenth of a percent portion of the tax would be transferred to the "Safety Net Care Pool Fund". This transfer is permanent.

The bill also amends the current statute related to the powers and duties of the counties related to indigent care. The bill would allow the counties to budget for expenditures on ambulance services, burial expenses, and hospital or medical expenses for indigent residents of their county.

The bill also amends the current statute related to the powers and duties of the counties related to indigent care. The bill would allow the counties to budget for expenditures on ambulance services, burial expenses, and hospital or medical expenses for indigent residents of their county. The bill would require that qualifying hospitals receiving payment from the Safety Net Care Pool file a quarterly report on all indigent health care funding with the HSD and the County Commission. The report would contain the criteria determining how an indigent patient is deemed eligible for health care services; the total cost of health care services provided by the hospital for indigent patients; a breakdown of the services provided and the corresponding aggregate cost; the restrictions on health care services provided by the hospital for indigent patients; and a list of all revenue sources, with corresponding amounts used by the qualifying hospital to provide health care services to indigent patients.

Lastly, the bill would require HSD to submit a quarterly report to the Legislative Finance Committee containing the previous quarter's Safety Net Care Pool Fund receipts and the disposition of funds. The report would be due by the last day of the succeeding quarter. The bill contains an emergency clause to be made effective immediately if passed.

## FISCAL IMPLICATIONS

HSD projects that the one-sixteenth increment would provide about $18.2 million, half the amount originally projected to come from the counties. Both the executive and LFC budget recommendation assumed that the counties would contribute approximately $36.4 million from a one-eighth increment; in return for this contribution level the state would contribute $9 million to $10 million in general fund to support the program. The University of New Mexico Health Sciences Center was assumed to make an intergovernmental transfer of $14 million, so in total there would be almost $60 million in state revenue to be matched by $132 million in federal revenue to provide almost $192 million in hospital payments.

However, an equivalent of a one-sixteenth gross receipts tax would provide only $18.2 million of the $36.4 million needed from the counties. HSD projects this would result in the state not being able to make about $61 million in payments to hospitals which was already built into the FY15 Medicaid projection.

However, House Appropriations Committee action on the general appropriation act has increased the state contribution to $15 million, contingent on SB 314 (or an equivalent bill) passing to provide the one-sixteenth contribution, along with legislation passing to reduce hospital gross receipts tax expenditures (HB 349) and a shift in distribution of liquor excise taxes. If all contingencies are met, it is possible that the full $192 million program would be sufficiently funded. In contrast to this approach, SB 368/HB 350 propose the counties provide the full one-eighth increment originally proposed by the HSD.

## SIGNIFICANT ISSUES

The Association of Counties notes that SB 314 strikes a balance among county, hospital and state interests by amending the county local option gross receipts tax statutes and amending and

repealing sections of the Indigent Hospital and County Health Care Act to comply with changes in federal regulations that replace the sole community provider hospital program. Senate Bill 314 provides a more equitable alternative that will not preempt local authority and that will not eliminate vital services for the most vulnerable county residents.

HSD notes that the Sole Community Provider program had provided supplemental payments to support hospitals in New Mexico that are the principal or sole provider of hospital services in their service areas, as well as the primary point of access to health care for the poor and other uninsured. Most of these 29 hospitals are in the most rural areas of the State, and all except the University of New Mexico Hospital are outside of Bernalillo County.

Payments from the program grew annually, reaching a high of about $278 million in FY11. Counties have supplied the state matching funds for this program, generally from their County Indigent Fund. The state, historically, has not used general appropriation for these payments.

At the end of 2012 the program faced a 70 percent reduction in allowable funding, reducing available payments from $246 million to about $69 million in FY13. The state began working with the federal Centers for Medicare and Medicaid Services (CMS) to replace the program and maintain higher hospital payments, ultimately including a new payment structure in the Centennial Care waiver program.

This new program, the Safety Net Care Pool, includes a pool of funding ($69 million) for uncompensated care and a rate increase for this same group of hospitals (about $120-$130 million). The new program began January 1, 2014. This and other bills seek to provide the state matching funds to make payments at these proposed levels. SB 314, however, falls short in that effort.

Preserving the ability of these hospitals to stay open and provide critical care and access is crucial to the success of the Medicaid program and county health care services. Given the significance of this issue, HSD has been working with counties and hospitals for more than a year to ensure adequate funding for this program and other county services.

## ADMINISTRATIVE IMPLICATIONS

The bill contains language that would require the qualifying hospitals receiving payments to submit a quarterly report to HSD. It would also require HSD to file a quarterly report of the receipts and disposition of funds to the LFC. The bill doesn't delineate consequences for hospitals not filing the quarterly report to HSD. Also, additional resources may be needed to review the reports from the hospitals and to prepare the quarterly report to the LFC.

Much of the information required here will be included in uncompensated care reports that HSD and CMS require hospitals to file in order to receive payments from the UC pool. The reporting required here could be duplicative and unnecessarily costly, given the multitude of other reports being provided for this and other programs.

## RELATIONSHIP

Relates to SB 368/HB 350, SB 268, and HB 349. SB 268 is similar to SB 314 but does not permanently imposes the one-sixteenth increment like SB 314. SB 268 adds new language not

included in SB 314 allowing counties to cover health insurance premiums for indigent patients as well as their out-of-pocket costs. It also allows reimbursement of county administrative expense to administer the indigent program.

HB 350/SB 368 imposes a transfer requirement of one-eighth gross receipts tax increment, essentially providing the revenue level to fully fund the program as envisioned by HSD. HB 349 amends the gross receipts requirements for hospitals, raising additional state revenue that could be appropriated to support schemes that only provide a one-sixteenth county contribution.

## OTHER SUBSTANTIVE ISSUES

County Concerns About HSD's Original Proposal

As noted above, HSD's original proposal was for a transfer of one-eighth gross receipts tax increment or equivalent. The Association of Counties provided the following background on county concerns with that proposal:

- One of the major changes is that funds provided by counties for the federal match no longer will be returned directly to that county's local hospital. Rather, the funds will be put into two pools—one to pay for a Medicaid base rate increase and one to pay for uncompensated care. Hospitals with over 200 beds will not be eligible to receive funds from the uncompensated care pool.
- HSD requests that the counties fund the safety net care pool, including the Medicaid base rate increase, with the equivalent of a county gross receipts tax (GRT) increment of 1/8$^{th}$ of a cent. However, Medicaid is a state program, not a county program.
- In addition to supporting their sole community hospital, counties use revenues from the second 1/8$^{th}$ increment to support a wide range of health care services critical to citizens who are not eligible for Medicaid. In FY 2013, counties spent over $1 million for ambulance services, nearly $4 million to out-of-county hospitals, over $1 million for mental health treatment, over $1.7 million for substance abuse treatment and rehab, and nearly $6 million for community based care such as primary care, office visits, prenatal and dental care.
- The New Mexico Association of Counties' Board of Directors unanimously opposed the HSD proposal because it would preempt local county authority. The counties have the responsibility to determine how to allocate tax funds that are generated within the county. The HSD proposal preempts local authority on the utilization of local tax revenues. The HSD proposal would consume the entire 1/8$^{th}$ increment, leaving the counties with the responsibility for paying for indigent health care from other sources. The practical effect will be the substantial reduction of indigent services in many counties. The HSD proposal will require counties to have to make draconian decisions, e.g., raise taxes and/or reduce services—in some cases eliminating the indigent program altogether.
- The HSD proposal will result in gross inequities for many counties and their local hospitals.

## ALTERNATIVES

HSD suggests the bill could be amended to require additional funding for the Safety Net Care Pool, such as a one-eighth increment as opposed to the one-sixteenth increment provided for in this version.

## WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There is currently no mechanism in place for funding the Safety Net Care Pool, and the state would not be able to make payments totaling almost $200 million. Hospitals may be forced to reduce services, or in some cases, close.

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