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

SPONSOR Cisneros **ORIGINAL DATE** 2/22/17 **LAST UPDATED** 2/24/17 **HB**

SHORT TITLE Health Care Tax Exemptions & Medicaid Fund **SB** 433

ANALYST Graeser

APPROPRIATION (dollars in thousands)

Appropriation					Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19	FY20	FY21		
	Up to $57,800.0	Up to $59,200.0	$0.0	$0.0	Recurring	Medicaid Trust Fund

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Non Recurring	Fund Affected
FY17	FY18	FY19	FY20	FY21		
	$57,800.0	$59,200.0	$0.0	$0.0	Recurring	Medicaid Trust Fund
	$0.00	$0.0	$0.0	$0.0	Recurring	General Fund
	($22,380.0)	($22,780.0)	$0.0	$0.0	Recurring	Local Government (jurisdictions with for-profit hospitals)

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

TRD will report high impact for implementing the provisions of this bill. It is not as complex as some of the bills introduced this session so may not involve contract programmers or a supplemental appropriation.

Duplicates, Relates to, Conflicts with, Companion to: HB-202, HB 412, SB-123, SB-433, SB-448, SB 457 relate in some fashion to GRT taxes on hospitals and other healthcare practitioners

SOURCES OF INFORMATION
LFC Files

Responses Received
New Mexico Municipal League
The FIR will be corrected if inputs are received.

SUMMARY

Synopsis of Bill

Senate Bill 433 proposes a two-year experiment in balancing the Medicaid budget by taxing the net receipts of not-for-profit hospitals and leveling the playing field between for-profit and not-for profit hospitals. The new revenue will be earmarked and distributed to a new "Medicaid Trust Fund." Money in the Medicaid Trust Fund will be used to supplement General Fund appropriations to fund the Medicaid program. The bill also requires that general fund appropriations to the state general fund shall not be lower than the general fund appropriations to the state Medicaid program for FY 16. This makes clear that the new money is to be used, at least partially, to restore previous cuts in Medicaid reimbursements to the hospitals and practitioners. The bill apparently intends to impose the government gross receipts tax on governmental hospitals, as well. However, see TECHNICAL ISSUES. The new imposition will probably be only on tangible personal property sold, and not services delivered, by governmental hospitals. Whatever changes in the overall governmental gross receipts tax are in fact, implemented, the bill holds harmless current distributions and distributes the changed revenue to the Medicaid Trust Fund.

FISCAL IMPLICATIONS

By earmarking general fund revenues for the purpose of funding Medicaid and restoring previous Medicaid cuts, this bill may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures and earmarks, revenues may be insufficient to cover growing recurring appropriations.

The bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

This has been a particularly difficult item to score. Definitive data from the Centers for Medicare and Medicaid Services (CMS) have only been published through 2009 – prior to the implementation of the Affordable Care Act. Fairly complete data are available for Medicaid reimbursements, but the allocation of these expenditures to relevant tax status categories was difficult. Some relevant data which otherwise might be available from TRD are covered by confidentiality requirements surrounding certain taxpayer information.

LFC staff have prepared a comprehensive model of the healthcare sector and have cross validated these data from numerous sources, including:

- The 1991 – 2009 comprehensive compendium of healthcare costs by sector from CMS -- these data include an estimate of total healthcare costs for all residents of New Mexico, Medicaid costs, and Medicare costs;
- 2012 Economic Census of the Healthcare and Social Services sector, sub-allocated into for-profit entities and not-for-profit entities and further sub-allocated into patient care revenues, grants, appropriations and other sources of income;
- TRD's RP-80 GRT history for calendar 2012 and the period June 2015 through May 2016, with differences between aggregate state totals and the sum of the detail reallocated to the redactions for confidentiality;
- Some updated information available from Kaiser Family Foundation;
- Extensive history and forecasts from HSD on Medicaid enrollments and expenditures;

- Extensive data from hospital cost reports (CMS) with a comprehensive analysis assembled by LFC staff for the SM-37 investigation;
- IHS Global-Insight forecasts of national healthcare services and tangibles inflation and natural growth; and
- 2015 and 2016 editions of the TRD Tax Expenditure Report.

However, because of the expansive definition of "gross receipts" in this bill, the primary data source was the 2015 Hospital Cost Reports.

There is some disagreement between the Hospital Association and the LFC estimate. However, the hospital cost reports are submitted for different purposes than the CRS-1 reports submitted to the Taxation and Revenue Department. There is some indication that the Governmental Hospitals are including other sources of income and counting these funds as net patient care revenues. This highlights one of the major issues of this bill. How can TRD fairly regulate what revenues are to be included as "gross receipts" of not-for-profit hospitals?

For the purpose of this estimate, because of the TECHNICAL PROBLEM identified below, we estimated the fiscal impact of this bill under three sets of assumptions.

Maximum – including services provided by Government Hospitals and "Other Taxable" category derived from the CMS 2015 Hospital Cost Reports.

	FY 2018			FY 2019		
($ thousands)	Not-for-Profit Hospitals	Government Hospitals *	For-Profit Hospitals	Not-for-Profit Hospitals	Government Hospitals *	For-Profit Hospitals
Patient Care Revenue	$2,271,202	$1,003,292	$1,938,987	$2,333,315	$1,030,730	$1,992,015
Other Taxable/Sale of Goods	$260,601	$366,748	$879,636	$267,728	$376,778	$903,693
Practitioner Deduction	$0	$0	$0	$0	$0	$0
Net Taxable	$2,531,802	$1,370,040	$2,818,623	$2,601,043	$1,407,508	$2,895,708
State tax rate	5.125%	5.000%	5.125%	5.125%	5.000%	5.125%
Local tax rate	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%
State revenue before credits	$129,755	$68,502	$144,454	$133,303	$70,375	$148,405
Hospital Credit	$104,437	$56,514	$116,268	$107,293	$58,060	$119,448
Net State Revenue (Medicaid Trust Fund)	$25,318	$11,988	$28,186	$26,010	$12,316	$28,957
Local Revenue	$0	$0	$0	$0	$0	$0
Current State Revenue	$0	$0	**	$0	$0	-$4,158
Current Local Revenue	$0	$0	$22,384	$0	$0	$22,778
Increase in State Revenue	$25,300	$12,000	$32,400	$26,000	$12,300	$33,100
Increase in Local Revenue	$0	$0	-$22,400	$0	$0	-$22,800

Minimum -- excluding services provided by Government Hospitals and "Other Taxable" category derived from the CMS 2015 Hospital Cost Reports. Allowing a residual amount for sales of tangible personal property by Government Hospitals

	FY 2018			FY 2019		
($ thousands)	Not-for-Profit Hospitals	Government Hospitals *	For-Profit Hospitals	Not-for-Profit Hospitals	Government Hospitals *	For-Profit Hospitals
Patient Care Revenue	$2,271,202	~~$1,003,292~~	$1,938,987	$2,333,315	~~$1,030,730~~	$1,992,015
Sale of Goods	$0	$11,100	$0	$0	$11,400	$0
Net Taxable	$2,271,202	$11,100	$1,938,987	$2,333,315	$11,400	$1,992,015
State tax rate	5.125%	5.000%	5.125%	5.125%	5.000%	5.125%
Local tax rate	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%
State revenue before credits	$116,399	$555	$99,373	$119,582	$570	$102,091
Hospital Credit	$93,687	$458	$79,983	$96,249	$470	$82,171
Net State Revenue (Medicaid Trust Fund)	$22,712	$97	$19,390	$23,333	$100	$19,920
Local Revenue	$0	$0	$0	$0	$0	$0
Current State Revenue	$0	$0	-$4,260	$0	$0	-$4,158
Current Local Revenue	$0	$0	$22,384	$0	$0	$22,778
Increase in State Revenue	$22,700	$100	$23,600	$23,300	$100	$24,100
Increase in Local Revenue	$0	$0	-$22,400	$0	$0	-$22,800

"Best Guess" – including "Other Taxable" category derived from the CMS 2015 Hospital Cost Reports but excluding services provided by Government Hospitals. Allowing a residual amount for sales of tangible personal property by Government Hospitals.

	FY 2018			FY 2019		
($ thousands)	Not-for-Profit Hospitals	Government Hospitals *	For-Profit Hospitals	Not-for-Profit Hospitals	Government Hospitals *	For-Profit Hospitals
Patient Care Revenue	$2,271,202	~~$1,003,292~~	$1,938,987	$2,333,315	~~$1,030,730~~	$1,992,015
Other Taxable/Sale of Goods	$260,601	$11,100	$879,636	$267,728	$11,400	$903,693
Net Taxable	$2,531,802	$11,100	$2,818,623	$2,601,043	$11,400	$2,895,708
State tax rate	5.125%	5.000%	5.125%	5.125%	5.000%	5.125%
Local tax rate	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%
State revenue before credits	$129,755	$555	$144,454	$133,303	$570	$148,405
Hospital Credit	$104,437	$458	$116,268	$107,293	$470	$119,448
Net State Revenue (Medicaid Trust Fund)	$25,318	$97	$28,186	$26,010	$100	$28,957
Local Revenue	$0	$0	$0	$0	$0	$0
Current State Revenue	$0	$0	-$4,260	$0	$0	-$4,158
Current Local Revenue	$0	$0	$22,380	$0	$0	$22,780
Increase in State Revenue	$25,300	$100	$32,400	$26,000	$100	$33,100
Increase in Local Revenue	$0	$0	-$22,380	$0	$0	-$22,780

The following table shows the range of these three sets of assumptions.

	Maximum		Minimum		Best Guess	
	FY 18	FY 19	FY 18	FY 19	FY 18	FY 19
Medicaid Trust Fund	65,490.0	67,260.0	46,400.0	47,500.0	57,800.0	59,200.0
General Fund	0.0	0.0	0.0	0.0	0.0	0.0
Change in Local Revenue	(22,380.0)	(22,780.0)	(22,380.0)	(22,780.0)	(22,380.0)	(22,780.0)
Additional Burden on Hospitals	43,110.0	44,480.0	24,020.0	24,720.0	35,420.0	36,420.0

The tables at the top of this review exhibit the "Best Guess" scenario.

It should be noted that the reduction in local gross revenue will be localized to those cities and counties with for-profit hospital: Christus St Vincent Hospital, Dr Dan Trigg Memorial Hospital, Espanola Hospital, Gerald Champion Regional Med Ctr, Holy Cross Hospital, Lincoln County Medical Center, Plains Regional Medical Ctr – Clovis, Presbyterian Hospital – Abq, Rehoboth Mckinley Christian Hospital, San Juan Regional Medical Center, Socorro General Hospital, and Union County General Hospital.

SIGNIFICANT ISSUES

Earmarking the new FY 18 revenue and designating it as "supplementary" to FY 2016 levels of General Fund appropriations will create a problem. Restoring Medicaid reimbursement levels to those in place before the 2016 Special Session solvency reductions is also problematic. If Medicaid is not to participate in the proportional reductions in appropriations for FY 17 and FY 18, then all other General Fund agencies, including public education, will have to bear larger reductions in appropriations. This may work out to be as much as 2.5% further reductions or about $60 million in additional cuts for FY 18.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is approximately met. Although TRD is not required to report annually to an interim legislative committee, the annual budget process would have access to all data regarding the productivity of the new taxes imposed on the hospitals.

In summary, the total new taxes collected from the hospitals are as follows:

New Hospital Taxes ($ thousands)	
FY 18	$35,420.0
FY 19	$36,420.0
FY 20	$0.0
FY 21	$0.0

Note that this total does not include significant contributions from the governmental hospitals

ADMINISTRATIVE IMPLICATIONS

TRD will report high impact for implementing the provisions of this bill. It is not as complex as some of the bills introduced this session so may not involve contract programmers or a supplemental appropriation. On the other hand, trying to determine what constitutes "gross receipts" of non-profit hospitals will be extraordinarily difficult.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB-202, HB 412, SB-123, SB-433, SB-448, SB 457 relate in some fashion to GRT taxes on hospitals and other healthcare practitioners.

TECHNICAL ISSUES

The intent of the bill may have been to impose the governmental gross receipts tax on governmental hospitals licensed by the Department of Health. However, the bill does not amend the definition of Governmental Gross Receipts (7-9-3.2 NMSA 1978) to include patient care revenues. Only the "sale of tangible personal property … from facilities open to the general public" are currently included in the definition of "governmental gross receipts." This interpretation has been used in determining the fiscal impact of this bill.

> 7-9-3.2. Additional definition. (2004)
> A. As used in the Gross Receipts and Compensating Tax Act, "governmental gross receipts" means receipts of the state or an agency, institution, instrumentality or political subdivision from:
> (1) the sale of tangible personal property other than water from facilities open to the general public;
> (2) …

Regulating what revenues constitute "gross receipts" will be extraordinarily difficult. Non-profit and governmental hospitals receive federal and state grant money that may or may not be considered as payment for providing services in New Mexico. Would mill levies be considered as payment for providing services in New Mexico? The Bernalillo County UNMH mill levy was imposed by the voters and the proceeds are not restricted to capital outlay, but to operating the hospital and all of its services. All counties are required to provide for indigent health care. In some cases, there is a hospital in the county that can care for the medically indigent, and be reimbursed by the county indigent fund. Since the advent of the affordable care act, the need for indigent funds has diminished, but not been eliminated.

The temporary provision of Section 20 may be unenforceable. In practical terms, this bill may not even be considered until after the FY 2018 General Appropriation Act is passed by the legislature and sent to the Governor. Thus, trying to implement the requirement that the GAA contain a level of support for the state Medicaid program would not be practically or theoretically possible. The hospitals would probably have standing to solicit a writ of mandamus or a temporary restraining order, but it is highly unlikely that this temporary requirement would be sustained or implemented. The argument is somewhat different for FY 19 budget, but the likelihood of actual implementation of the requirement is unlikely.

There are ten hospitals owned by a governmental entity. Four of these – UNMH & UNM Sandoval Medical Center, Miner's Colfax and Guadalupe County Hospital are operated by the governmental entity. The remaining six are operated by Presbyterian Medical Services or by one of the for-profit medical entities. It is not known whether the relationship between the owning government and the operating entity is in the nature of a contract relationship or a lease relationship. If the hospital is leased, then the receipts would be classified based on the status of the operating entity. If the hospital is currently leased and operated by a for-profit entity, the tax treatment under the provisions of this bill would be the same as for other for-profit hospitals. That is, the local government would lose gross receipts tax revenue, the Medicaid Trust Fund would gain significant revenue because both the 50% for-profit hospital and the state tax credit would no longer apply. If the hospital is currently operated by a contractor, then the tax liability would probably accrue to the governmental entity owning the hospital. TRD should keep this issue in mind leading up to the implementation of the provisions of this bill in July 2017.

Sales of tangible personal property (but not services) to non-profit entities have not been adjusted in this bill. Neither the compensating tax exemption of 7-9-15 NMSA 1978 nor the gross receipts tax exemption at 7-9-60 NMSA 1978 has been amended. Were either or both of these sections amended, the definitional problems would increase dramatically.

OTHER SUBSTANTIVE ISSUES

Hospital Name	1 total patient revenues	less contractual allowances and discounts	3 net patient revenues
For profit hospitals			
ALTA VISTA REGIONAL HOSPITAL	$158,849,066	$121,909,218	$36,939,848
ARTESIA GENERAL HOSPITAL	$173,241,398	$116,159,376	$57,082,022
CARLSBAD MEDICAL CENTER	$315,197,516	$221,926,482	$93,271,034
CIBOLA GENERAL HOSPITAL	$59,862,199	$29,577,445	$30,284,754
EASTERN NEW MEXICO MEDICAL CTR	$447,205,090	$324,461,884	$122,743,206
GILA REGIONAL MEDICAL CENTER	$203,864,089	$132,489,721	$71,374,368
GUADALUPE COUNTY HOSPITAL	$15,165,443	$9,057,755	$6,107,688
LEA REGIONAL HOSPITAL	$222,995,235	$148,244,114	$74,751,121
LOS ALAMOS MEDICAL CENTER	$113,757,406	$59,006,327	$54,751,079
LOVELACE MEDICAL CTR DOWNTOWN	$1,208,160,145	$964,551,343	$243,608,802
LOVELACE ROSWELL REGIONAL HOSPITAL	$191,145,506	$145,762,526	$45,382,980
LOVELACE WESTSIDE HOSPITAL	$241,249,902	$187,990,225	$53,259,677
LOVELACE WOMEN'S HOSPITAL	$596,531,636	$442,084,884	$154,446,752
MEMORIAL MEDICAL CENTER	$782,877,466	$557,358,408	$225,519,058
MIMBRES MEMORIAL HOSPITAL	$115,975,203	$78,872,069	$37,103,134
MINERS' COLFAX MEDICAL CENTER	$25,538,925	$6,147,381	$19,391,544
MOUNTAIN VIEW REGIONAL MEDICAL CTR	$726,901,363	$529,400,202	$197,501,161
NOR-LEA GENERAL HOSPITAL	$142,466,128	$85,136,959	$57,329,169
ROOSEVELT GENERAL HOSPITAL	$62,579,299	$39,042,554	$23,536,745
SIERRA VISTA HOSPITAL	$30,189,103	$15,660,211	$14,528,892
UNIVERSITY OF NEW MEXICO HOSPITAL	$1,673,085,166	$761,329,820	$911,755,346
UNM SANDOVAL REGIONAL MEDICAL CTR	$156,115,274	$80,844,317	$75,270,957
For profit subtotal	**$7,662,952,558**	**$5,057,013,221**	**$2,605,939,337**
Not for profit hospitals			
CHRISTUS ST VINCENT HOSPITAL	$1,031,810,315	$657,463,399	$374,346,916
DR DAN TRIGG MEMORIAL HOSPITAL	$26,399,345	$13,243,223	$13,156,122
ESPANOLA HOSPITAL	$184,327,063	$114,826,460	$69,500,603
GERALD CHAMPION REGIONAL MED CTR	$416,142,101	$293,810,285	$122,331,816
HOLY CROSS HOSPITAL	$106,220,007	$60,670,173	$45,549,834
LINCOLN COUNTY MEDICAL CENTER	$91,372,304	$51,728,362	$39,643,942
PLAINS REGIONAL MEDICAL CTR - CLOVIS	$277,956,742	$185,058,299	$92,898,443
PRESBYTERIAN HOSPITAL – ABQ	$2,980,869,237	$1,741,748,843	$1,239,120,394
REHOBOTH MCKINLEY CHRISTIAN HOSPITAL	$136,190,353	$88,769,358	$47,420,995
SAN JUAN REGIONAL MEDICAL CENTER	$655,179,079	$394,392,682	$260,786,397
SOCORRO GENERAL HOSPITAL	$57,783,080	$31,808,820	$25,974,260
UNION COUNTY GENERAL HOSPITAL	$24,601,993	$14,570,618	$10,031,375
Not for profit subtotal	**$5,988,851,619**	**$3,648,090,522**	**$2,340,761,097**

Government hospitals			
ARTESIA GENERAL HOSPITAL	$173,241,398	$116,159,376	$57,082,022
CIBOLA GENERAL HOSPITAL	$59,862,199	$29,577,445	$30,284,754
GILA REGIONAL MEDICAL CENTER	$203,864,089	$132,489,721	$71,374,368
GUADALUPE COUNTY HOSPITAL	$15,165,443	$9,057,755	$6,107,688
MINERS' COLFAX MEDICAL CENTER	$25,538,925	$6,147,381	$19,391,544
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UNIVERSITY OF NEW MEXICO HOSPITAL	$1,673,085,166	$761,329,820	$911,755,346
UNM SANDOVAL REGIONAL MEDICAL CTR	$156,115,274	$80,844,317	$75,270,957
Just government subtotal	**$2,542,107,024**	**$1,275,445,539**	**$1,266,661,485**
	$16,193,911,201	$9,980,549,282	$6,213,361,919

ALTERNATIVES

Prior to the session, the hospitals announced they were willing to pay up to $55 million to help with the Medicaid budget balancing effort. If the technical problem with the Governmental hospitals is addressed, the hospitals will contribute around $44 million. The proportional credit in Section 10 could be reduced to 3.875% for for-profits and not-for-profit hospitals and 3.75% for governmental hospitals.

It might also be a good idea to define what hospital revenues are included in governmental gross receipts. For example, mill levies, appropriations, gross receipts taxes, indigent care distributions, federal government grants, or grants such as DOH contributions for medically underserved area clinics could be excluded within the definition of governmental gross receipts. These same government transfers could be excluded from the definition of gross receipts.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

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

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee (RSTP), to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

Section-by-Section
Section 1 (Effective July 1, 2017): repeals the current local option gross receipts tax distributions for for-profit hospitals and prohibits a distribution of local option gross receipts taxes imposed for the experimental period on not-for-profit hospitals. Defines a hospital as including a facility providing emergency or urgent care, inpatient medical care and nursing care for acute illness, injury, surgery or obstetrics and includes facilities licensed by the Department of Health as a critical access hospital, general hospital, long-term acute care hospital, psychiatric hospital, rehabilitation hospital, limited service hospital and special hospital. The listing of licensed hospitals seems quite complete. It is unknown if there are other facilities that will come under the more expansive portion of the definition.

Section 2 (Effective July 1, 2019): terminates the experimental period and returns 7-1-6.4 NMSA 1978 to its pre-experimental period form.

Section 3 (Effective July 1, 2017): holds harmless the governmental gross receipts tax distributions to the public projects revolving fund, EMNRD's youth conservation corps (YCC), EMNRD's state parks capital program and the Cultural Affairs Department. New money from imposing the governmental gross receipt tax on governmental hospitals is excluded in Section 7-1-6.38 NMSA 1978 but is distributed, along with new money from the not-for-profit hospitals in Section 10 of the bill.

Distribution %	To:
75%	Public project revolving fund
10%	ENMRD/ YCC
14%	ENMRD/ State Park Capital
1%	Cultural Affairs Department

Section 4 (Effective July 1, 2019): terminates the experimental period and returns 7-1-6.38 NMSA 1978 to its pre-experimental period form.

Section 5 (Effective July 1, 2017): distributes the new money from imposing the gross receipts tax on not-for-profit hospitals, for-profit hospitals and governmental hospitals to the newly created Medicaid Trust Fund.

Section 6 (Effective July 1, 2017): imposes a governmental gross receipts tax on the governmental gross receipts of governmental hospital and, returns the section to its previous directives after the two-year experimental period. However, "governmental gross receipts" in this context only includes "tangible personal property sold from a facility open to the general public," and therefore does not pick up the bulk of gross receipts for the sale of healthcare services by governmental hospitals."

Section 7 (Effective July 1, 2017): repeals the exemption from gross receipts tax for receipts of non-profit hospitals for the duration of the experimental period and returns the section to its pre-experimental period as of July 1, 2019. It is important to note that all receipts of the not-for-profit hospitals may be considered "gross receipts". .

Section 7-9-3.5 NMSA 1978

As used in the Gross Receipts and Compensating Tax Act:

- "gross receipts" means the total amount of money or the value of other

> consideration received from selling property in New Mexico, from leasing or licensing property employed in New Mexico, from granting a right to use a franchise employed in New Mexico, from selling services performed outside New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico. …

It will be up to TRD to determine what revenues of non-profit hospitals will come under the definition of "total amount of money from performing services in New Mexico." For example, some of the smaller hospitals may receive grants from DOH to provide healthcare services in medically underserved areas. Most of the grants are to practitioners and clinics, but the clinic may be licensed by DOH as a "limited service hospital [or] special hospital." Are distributions to a hospital from County Indigent Fund "gross receipts?"

Section 8 (Effective July 1, 2107): repeals for the period from July 1, 2017 through June 30, 2019 the 50% deduction currently allowed for-profit hospitals (7-9-73.1 NMSA 1978).

Section 9 (Effective July 1, 2107): repeals for the period from July 1, 2017 through June 30, 2019 the credit against state tax liability currently allowed for-profit hospitals (7-9-96.1 NMSA 1978). The amount of this credit is 5.000% of the 5.125% imposed rate for hospitals located in county remainder areas and 3.75% of the 3.9% state rate imposed for hospitals located in municipal areas.

Section 10 (Effective July 1, 2017): effectively imposes a tax on for-profit, not-for-profit and governmental hospitals of 1% of (expansively defined) gross receipts. This section also makes clear that VA and Indian Health Hospitals are not liable for this tax.

Section 11 (Effective July 1, 2017): redefines "gross receipts" to exclude the receipts of hospitals for the purposes of the Municipal Local Option Tax. The feature creates a base that excludes the imposition of a local option gross receipts tax rate.

Section 12 (Effective July 1, 2019): restores 7-19D-2 NMSA 1978 to its form and substance before the two-year experimental period.

Section 13 (Effective July 1, 2017) completes the separation of the state tax base and the local tax base for hospitals pursuant to the Municipal Local Option Gross Receipts tax act by permitting the state base and the local option base to differ.

Section 14 (Effective July 1, 2019): restores 7-19D-4 NMSA 1978 to its form and substance before the two-year experimental period.

Section 15 (Effective July 1, 2017): completes the separation of the state tax base and the local tax base for hospitals pursuant to the County Local Option Gross Receipts tax act.

Section 16 (Effective July 1, 2019): restores 7-20E-2 NMSA 1978 to its form and substance before the two-year experimental period.

Section 17 (Effective July 1, 2017): parallels Section 13 of the bill and completes the separation of the state tax base and the local tax base for hospitals pursuant to the County Local Option Gross Receipts tax act by permitting the state base and the local option base to differ.

Section 18 (Effective July 1, 2019): restores 7-20E-4 NMSA 1978 to its form and substance before the two-year experimental period.

Section 19 (Effective July 1, 2017): creates a "Medicaid trust fund." It is up to the compiler where this Medicaid Trust Fund would be compiled. Other bills this session suggest that the Medicaid Trust Fund belongs in the "Statewide Health Care Act." The fund is self-earning and subject to appropriation only to support the State Medicaid program and is clearly intended to be supplemental to the General Fund appropriations for Medicaid. Once created, this fund is not repealed at the end of the experimental period.

Section 20 (Effective July 1, 2017): TEMPORARY PROVISION – not to be compiled. This section directs the legislature to implement the intent of the bill to provide supplemental funds for FY 18 and FY 19, at least partially to restore 2016 2nd SS Medicaid reimbursement cuts to hospitals and practitioners. This may be an unenforceable request or directive. At least a portion of this requirement would reduce general fund revenues. Legal advice should be sought on this point.

Section 20: The effective date of the new provisions of this bill is July 1. 2017. The termination of these provisions is also provided as July 1, 2019.

LG/sb/al