FISCAL IMPACT REPORT

		ORIGINAL DATE	01/27/14		
SPONSOR	Trujillo, J.	**LAST UPDATED**	02/04/14	**HB**	56/aHTRC
SHORT TITLE	Durable Medical Equipment Gross Receipts			**SB**	
				ANALYST	van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	**FY15**	**FY16**	**FY17**	**FY18**		
$0.0	($1,735.0)	$(1,774.0)	($1,815.0)	($1,854.0)	Recurring	General Fund
$0.0	($1,157.0)	($1,183.0)	($1,210.0)	($1,236.0)	Recurring	Local Governments
$0.0	**($2,892.0)**	**($2,957.0)**	**($3,024.0)**	**($3,089.0)**		**Total**

(Parenthesis ( ) Indicate Revenue Decreases)

Similar to SB 88.

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 56 changes the date on which the TRD must begin reporting an analysis of the deduction from 2020 to 2019, and changes the frequency of the reporting requirement from every six years to every five years.

Synopsis of Original Bill

House Bill 56, endorsed by the Revenue Stabilization and Tax Policy Committee, creates a new section of the Gross Receipts and Compensating Tax Act to provide a deduction from gross receipts and governmental gross receipts for receipts from transactions occurring prior to July 1, 2021 from the sale or rental of durable medical equipment and medical supplies. The stated purpose of the deduction is to help protect jobs and retain businesses in New Mexico that sell or rent durable medical equipment and medical supplies.

Taxpayers claiming this deduction must report the amount of the deduction separately.

The deduction may only be taken by taxpayers participating in the New Mexico Medicaid program whose gross receipts are no less than 90 percent derived from the sale or rental of durable medical equipment, medical supplies or infusion therapy services, including the medications used in infusion therapy services.

Acceptance of the deduction is authorization by the taxpayer for the Taxation and Revenue Department (TRD) to reveal information necessary to analyze the effectiveness and cost of the deduction to RSTP and the LFC. TRD must compile an annual report on the deduction including the number of taxpayers approved to receive the deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deduction. Beginning in 2020, TRD must report an analysis of the effectiveness and cost of the deduction to RSTP and the LFC every six years.

The effective date of this bill is July 1, 2014. The sunset date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

With the assistance of industry groups, TRD identified 54 New Mexico durable medical equipment suppliers licensed by Medicare and Medicaid whose sales are no less than 90 percent prescribed durable medical equipment (DME) or prescribed medical supplies. About 40 of those filed gross receipts tax returns in FY13.

Based on TRD data, these 40 entities reported approximately $39.3 million dollars in taxable gross receipts and $2.8 million in gross receipts tax in FY13. With no way to differentiate between qualifying and non-qualifying gross receipts, and given that the bill specifies that no less than 90 percent of sales come from prescribed DME, this analysis assumes all gross receipts from qualifying entities will be deducted. Annual growth rates follow the forecast by TRD's and LFC's forecasting contractor, Global Insight, for Durable Therapeutic Appliances & Equipment percentage price increase rates.

The Human Services Department reports Medicaid reimburses for GRT for durable medical equipment when:

- the provider is for profit;
- the item sold is a taxable item; and
- Medicaid is the primary payer.

HSD adds Medicaid reimburses the GRT that is in effect on the date of service, and if the rate goes up, the GRT payment goes up.

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 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.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report 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.

ADMINISTRATIVE IMPLICATIONS

TRC reports the bill will have a moderate administrative impact on the agency. HB 56 requires the deduction to be separately stated from other deductions. As TRD's CRS filing system is currently implemented, the deduction could be tracked by using special rate and/or location codes, but the added complexity also decreases the likelihood of correct filing by taxpayers. Historically, taxpayer compliance with separately-stated deductions has been very low. Low taxpayer compliance rates with regard to reporting requirements will reduce the value of any reports concerning this deduction issued by TRD.

Taxpayers will also incur the burden of reprogramming computer systems and changing accounting practices to account for the separately reported deduction

RELATIONSHIP

Relates to SB 88

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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