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## FISCAL IMPACT REPORT

SPONSOR Sandoval      DATE TYPED 02/15/05      HB 446  
 SHORT TITLE Physical Therapist Gross Receipts      SB \_\_\_\_\_  
 \_\_\_\_\_ ANALYST Padilla-Jackson

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY06	FY07			
(\$27.0)	(\$32.0)	Increasing	Recurring	General Fund
(\$17.0)	(\$20.0)	Increasing	Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

Senate Bill 401 is a duplicate.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Department of Health (DOH)

For The Legislative Health and Human Services Committee

### SUMMARY

#### Synopsis of Bill

House Bill 446 amends current tax law to expand the list of medical care providers eligible to receive a gross receipts tax deduction for receipts from the provision of medical health services to Medicare beneficiaries by physical therapists, clinical laboratories, and home health agencies. Eligible receipts include those from third-party administrators of Medicare and the Federal Military TRICARE program. The bill also reconciles multiple amendments to the same section of law in laws 2003. The bill states that receipts for health services provided by a clinical lab may be deducted pursuant to the following schedule:

1. from July 1, 2003 through June 30, 2004, thirty-three and one-third percent of the receipts may be deducted;

2. from July 1, 2004 through June 30, 2005, sixty-six and two thirds percent of the receipts may be deducted; and
3. after June 30, 2005, one hundred percent of the receipts may be deducted.

The bill also states that receipts for health services provided by a home health agency may be deducted pursuant to the following schedule:

1. from July 1, 2003 through June 30, 2004, thirty-three and one-third percent of the receipts may be deducted;
2. from July 1, 2004 through June 30, 2005, sixty-six and two thirds percent of the receipts may be deducted; and
3. after June 30, 2005, one hundred percent of the receipts may be deducted.

The bill defines "home health agency" to mean a for-profit entity that is licensed by the department of health and certified by the federal centers for Medicare and Medicaid services as a home health agency.

This bill is being introduced on behalf of the Legislative Health and Human Services Department. No effective date was provided.

### **FISCAL IMPLICATIONS**

According to the analysis provided by TRD, the total fiscal impact of the bill is -\$44 thousand for FY06, of which -\$27 thousand would impact the general fund and -\$17 thousand would impact local governments. Implied eligible receipts for this estimate is approximately \$675 thousand. TRD's analysis showed about three percent of the state's population is covered by TRICARE and 16 percent of the state's population is covered by Medicare. A seven percent average growth rate was used to estimate the forecasted impacts and a 2.3 percent growth rate was used to forecast the growth in Medicare beneficiaries. Due to similar laws passed in 2003, TRD notes that the fiscal impact of this bill is limited to the new deduction allowed for physical therapists. See the discussion under "Other Issues" for more detail.

TRD noted that the gross receipts for physical therapists were taken from the Department's "Analysis of Gross Receipts by North American Industry Classification System (NAICS)". Additional information was gathered from the New Mexico Health Policy Commission; the TRICARE Annual Report; American Physical Therapy Association; and the State of New Mexico Regulation and Licensing Department.

### **ADMINISTRATIVE IMPLICATIONS**

The bill would have a minimal impact to TRD.

### **OTHER SUBSTANTIVE ISSUES**

According to TRD, Laws 2003, Chapter 350, Section 1 amended the deduction under Section 7-9-77.1 NMSA 1978 to include Medicare receipts of home health agencies and clinical laboratories. However, because Laws 2003, Chapter 351, Section 1, which also amended Section 7-9-77.1, was signed last by Governor, it was codified, while Laws 2003, Chapter 350, Section 1

(deduction for clinical labs and home agencies) appears in the annotations to that section. The Tax Department interprets the annotations of the statute to be binding as law until and unless these are omitted in a subsequent amendment of the statute. The Department's position is based on the argument that rules of statutory construction are only aids when interpreting true legislative intent (*Quintana v. New Mexico Dep't of Cors.*, 100 N.M. 224, P2d 1101 [1983]).

**OPJ/njw:lg**