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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/08

SPONSOR Heaton LAST UPDATED _____ HB 324

SHORT TITLE Charitable Care Property Tax Valuation SB _____

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	NFI – See Narrative			

(Parenthesis () Indicate Revenue Decreases)

Relates to SB114, HB 382

SOURCES OF INFORMATION

LFC Files

Responses Received From

Health Policy Commission (HPC)
 Aging and Long Term Services Department (ALT)
 Human Services Department (HSD)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 324 expands the definition of property that is not subject to valuation under the Property Tax Code to include property that is

- Operated as a community to which the Continuing Care Act [24-17-1 NMSA 1978] applies or as a DOH licensed facility
- Owned by a charitable nursing, retirement, or long term care organization that is a 501(c)(3) nonprofit, donates a portion of its services or facilities, and uses all funds remaining after payment of expenses to further its charitable purpose, including improving, maintaining or expanding its facilities

The exemption from valuation is for tax years beginning on or after January 1, 2008, and there is an emergency clause.

FISCAL IMPLICATIONS

The fiscal impact is indeterminate. If additional property is exempted from property tax under the law (see TRD's analysis under "Technical Issues" to see why there may not be additional properties exempted), then the relieved obligations will shift to other non-exempt taxpayers.

SIGNIFICANT ISSUES

ALT:

Long-term care facilities of this type are a necessary part of the continuum of services and supports needed in New Mexico. Although the Aging and Long-Term Services Department seeks to promote home and community-based services wherever possible, it is vital to assure that an elder or person living with a disability be able to receive services in the environment most appropriate to meet that individual's needs and desires. For some, that will be in a residential setting. This bill would help to preserve not-for-profit nursing facilities, by relieving them of the financial burden of property tax valuation.

TECHNICAL ISSUES

TRD reports that property tax exemptions are found in the state constitution (Art. VIII, Sec.3) and have been fairly clearly established by case law through the years. In fact, *Lovelace Center v. Beach*, 93 N.M. 793, 606 P.2d 203 (1980) held that a hospital having charitable and educational purposes was tax-exempt. If the facility meets the constitutional criteria, it is tax exempt. The constitutional exemptions cannot be expanded by statute; the bill therefore, cannot make a health care facility tax exempt if it is not tax exempt under the Constitution. Intent of the proposal is unclear. The bill cannot change the Constitution. Enactment of the bill might create confusion, because the language of the bill may lead taxpayers to believe that the exemption is broader than what is allowed by the Constitution.

NF/mt