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

ORIGINAL DATE 01/31/12
SPONSOR Rehm **LAST UPDATED** ______ **HB** 26

SHORT TITLE Reduce Mill Levy to Pay for County Hospitals **SB** ______

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
NFI	See Narrative for Impact	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY12	FY13	FY14	FY15	FY16		
$0.0	$0.0	($80,400.0)	($82,800.0)	($85,300.0)	Recurring	Bernalillo County/UNM Hospital

Parentheses ( ) indicate a revenue loss. (Source: TRD)

Conflicts with House Bill 29 which would progressively reduce the same mill levy affected by this bill, beginning in 2013.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Attorney General's Office (AGO)

> The AGO adds the following disclaimer: "This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Opinion letter. This is a staff analysis in response to the agency's, committee's or legislator's request."

Taxation and Revenue Department (TRD)
Department of Finance and Administration (DFA)
Human Services Department (HSD)

SUMMARY

Synopsis of Bill

House Bill 26 (HB26) would void the imposition of mill levies for county hospital funding. Revenues from the levies are authorized for costs of operating and maintain county hospitals, for paying contract hospitals and, in class A counties, for the county-supported Medicaid program. The DFA reports that based on the 2010 census, this would only apply to Bernalillo County. Under present law the affected levies can be imposed, subject to voter approval, up to a maximum rate of 6.5 mills in a class A county and 4.25 mills elsewhere. The 2012 levy for Bernalillo County is 6.4 mills and was approved by the voters in 2008. The voter approval extends through the 2016 property tax year.

After voiding the any mill levy falling under this act effective January 1, 2013, county commissioners would be authorized to impose a mill levy and collect annual assessments for contracting hospitals, and pay for the county's transfer to the County Supported Medicaid Fund. Such a mill levy would be capped at a rate of $.65 (a 90% reduction from the current levy) or any lower amount specified by yield control under Section 7-37-7.1 NMSA 1978.

Transfers of mill levy revenues to the County Supported Medicaid Fund would be limited to the amount that would be produced by a mill levy for the prior year and may not exceed the amount that would be produced by the County Health Care Gross Receipts Tax.

If enacted, the bill would become effective July 1, 2012.

FISCAL IMPLICATIONS

This bill may be counter to the LFC tax policy principle of adequacy. According to the LFC staff General Fund Recurring Appropriation Outlook for FY14 and FY15, December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations.

According to mill levy information collected by the Department of Finance and Administration, on November 8, 2008, voters in Bernalillo County approved a 6.40 mill levy for the UNM Hospital & Mental Health Center which went into effect in tax year 2009 and is valid through tax year 2016. The Bernalillo County Assessor reported total property valuation in 2011 of $13,487,741,883 for UNM Hospital. Assuming a 97% property tax collection rate, the 6.40 mill levy is estimated to generate revenue of approximately $83,700,000. If the provisions of HB26 were in effect in 2011 and the mill levy reduced to 0.65 mills, the revenue generated would drop to approximately $8,500,000, which is a reduction of $75,200,000.

The TRD provided the following information on the impact of this bill.

> The current 6.4 mill levy generated $89,498,534 in obligations for the 2011 property tax year. On average, this is a 7.5% annual growth in obligations over the period. The 2011 obligations were 1.2% below TY 2010 levels.
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> The mill levy represents approximately 13% of the total funding for UNMH for fiscal year 2010. The remaining sources of funding are Medicare, Medicaid and other third party payers. The patient payer mix at UNMH is 29% Medicaid, 28% Commercial/HMO,

> 18% Medicare, and 25% uncompensated care or other funding sources.
> This bill would not affect the $9.9 million transferred to UNMH from the County Health Care Gross Receipts Tax (.0625% rate, county-wide). This bill would also not affect a similar $9.9 million transferred to the County-Supported Medicaid Fund from County Health Care Gross Receipts Tax.
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> UNMH treats nearly 76,000 patients with $147 million of associated uncompensated care costs each year. Uncompensated care is the combination of charity (indigent) patient care and uninsured patient care. Uncompensated care can be stated as billed charges or cost. UNMH states uncompensated care ***at cost***, not billed charges.
>
> In 1952, Bernalillo County made a commitment to the federal government to construct a hospital (now known as UNMH) and to collect annually taxes sufficient to support the operation of the hospital. In 2008, Bernalillo County followed statutory process and put to the voters the question of authorizing the UNMH mill levy. The voters of Bernalillo County approved the UNMH mill levy question. If HB 335 (this year's HB 26) were passed and sign into law, Bernalillo County and the State of New Mexico would be in breach of the 1952 federal contract. In addition, Bernalillo County would be in breach of the 1999 lease.

The Human Services Department's Medical Assistance Division, which administers the state's Medicaid program, explains additional fiscal impacts to the Medicaid program and UNMH as follows.

> This bill will significantly reduce the amount of funding that is received by UNMH. UNMH is a "safety net" hospital and provides services to many persons who are unable to pay for their health care needs. Reduction of funding from Bernalillo County would severely impact the financial ability of the hospital to care for these people. It could also result in cost-shifting, increasing the hospital's charges billed to commercial insurance carriers, Medicare, and Medicaid
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> The proposed amendments in this bill will severely strain the safety net system that UNMH supplies, as well as reduce Bernalillo County's contributions to CSMF. In FY11, Bernalillo County contributed approximately $10.2 million to the CSMF. These funds are appropriated by the Legislature to support New Mexico's Medicaid Program and to support primary care services in the state. In FY12, using those dollars, Medicaid will match its expenditures of state funds with the federal funds at a rate of 2 to 1. For every $1 in state funds that the Medicaid program spends, it will receive $2 in federal funds. Any loss to CSMF would require state general fund to replace.

SIGNIFICANT ISSUES

There is a possible legal issue: It is not clear whether the legislature can override a validly imposed mill levy approved by the voters.

The DFA identified the following issues related to the bill.

> The reduction of mill levy revenue would potentially have a significant impact on UNM Hospital's operating budget. According to the duplicate legislation introduced in the 2011 Legislative Session, HB335, UNM Hospital reported that the mill levy represents

approximately 13% of total hospital funding.
Additionally, if UNM Hospital is using the mill levy for repayment of any debt related to maintaining the hospital and no other revenue sources are available for making debt payments, the ability of the hospital to repay debt could be compromised.

The Fiscal Impact Report on the 2011 HB335 also makes mention of a 1952 commitment made by Bernalillo County to the federal government to construct UNM Hospital and to collect annual taxes sufficient to support hospital operations. The enactment of HB26 could negatively impact the county's ability to meet the terms of this commitment.

It should be further noted that the property tax rates are certified by September 1st of each year by statute for the use of billing and collecting taxes for the fiscal year in which it is certified (i.e. certification as of September 1, 2011 is for the fiscal year July 2011 thru June 30, 2012). By stipulating these proposed reductions by "calendar" year could pose a logistics problem considering there are 2 rates used in a "calendar" year (repeated under "Technical Issues").

The AGO suggests that HB26 may be an attempt to address issues of tax liability in the biggest county, Bernalillo, where it is perceived that mill levies impact are higher on property owner because property values are highest. HB26 reduces significantly the current levies imposed on class A counties (6.5 mills) and other counties (4.25 mills) and does not provide any other funding source to provide for county hospital services at UNMH.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 29 proposes a phased reduction in the affected mill levy beginning in 2013.

TECHNICAL ISSUES

TRD comments there is continuing debate concerning voter-approved mill levies. In the text of section 1 of the bill (Section 4-48B-12 NMSA), subsection A (1) anticipates that the maximum 6.5 mill voter-approved levy would be subject to yield control (Section 7-37-7.1 NMSA 1978). However, DFA/LGD does not reduce the authorized 6.4 mill levy to conform to yield control. It is equally unclear whether the proportional levy proposed by this bill would or would not be subjected to the yield control calculation because of DFA/LGD's interpretation of statute. Testimony should be solicited from DFA/LGD on this point.

The DFA notes that reference to "calendar" year could complicate the current property tax system. By replacing the term "calendar" to "tax" year, it would be in line with the current system in place.

OTHER SUBSTANTIVE ISSUES

The TRD contends that the purpose of this bill is to adapt UNMH funding to the provisions of the (federal) Affordable Care Act, which mandates by 2014 all persons must have health insurance.

TRD notes an additional policy issue of long-standing. Because UNMH provides, arguably, the best medical care in the state, Bernalillo County taxpayers may be funding indigent care for the entire state, not just for medically indigent residents of Bernalillo County.

POSSIBLE QUESTIONS

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

CH/svb