

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 3, 2024

Bill: SB-17

Sponsor: Senator Elizabeth "Liz" Stefanics, Representative Doreen Y. Gallegos, Senator Michael Padilla, Representative Jason C. Harper and Senator Martin Hickey

Short Title: Health Care Delivery & Access Act

Description: The bill creates the Health Care Delivery and Access Act, which imposes an assessment on certain hospitals and provides for reimbursement to other hospitals. Subject to approval of the federal Centers for Medicare & Medicaid Services (CMS), an assessment will be imposed on inpatient hospital services and outpatient hospital services provided by each eligible hospital. The inpatient assessments are based on assessed days and the outpatient assessments are based on assessed outpatient revenue. Rural hospitals and special hospitals receive a 50% percent discount on the assessment rates and small urban hospitals receive a 90% discount. The New Mexico Health Care Authority (HCA) calculates the assessment rates and notifies the hospitals and the Taxation and Revenue Department (Tax & Rev). The bill provides how the HCA shall calculate the assessment. A new section of the Tax Administration Act is created to provide for distribution of the assessments by Tax & Rev to the Health Care Delivery and Access Fund.

Effective Date: The provisions of Sections 1 through 11 shall become effective on the first day of the month subsequent to the health care authority department receiving the necessary federal authorizations and approvals of waivers required to implement and administer the Health Care Delivery and Access Act from CMS. Upon this occurring, the secretary of the health care authority shall immediately notify the New Mexico compilation commission, the director of the legislative council service and the secretary of taxation and revenue. Sections 1 through 11 are repealed effective July 1, 2030.

Taxation and Revenue Department Analyst: Lucinda Sydow

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	\$345,500	\$351,400	\$357,200	\$363,200	NR	Health Care Delivery and Access Fund
--	\$874,500	\$889,300	\$904,000	\$919,400	NR	Federal Funds Match

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: This revenue impact analysis assumes that HCA obtains federal approval (Sections 7(A), 12 and 14). According to the analysis provided by the Human Services Department (HSD), estimated total assessments for the first year are \$345.5 million across 47 hospitals. The net total amount to be available for hospital funding in FY2025 is \$1.22 billion, based on the assessments and a federal Medicaid match of 71.68%¹ yielding \$874.5 million in federal share funding. Tax & Rev assumed a start date of November 1, 2024 given federal approval timelines for HCA and the deadline in the bill to notify eligible hospitals (Section 3E(1)). The first payments by hospital would be due March 2025 and May 2025 (Section 6). The total assessments estimation of \$345.5 million is split

¹ [Federal Register :: Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children's Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2024, Through September 30, 2025](#)

between the portions tied to inpatients days and to outpatient revenue. Approximately 58% of the estimation is tied to outpatient revenue. Tax & Rev grew that portion by S&P Global's January 2024 consumer health care index forecast. The portion for inpatient days is assumed to remain flat assuming the same rate of inpatient care from a steady New Mexico population. The federal funds match is assumed flat for the forecast but is subject to change annually on the federal fiscal year (Oct. 1 to Sept 30).

Policy Issues: Under current federal regulations, states may not use provider tax revenues for the state share of Medicaid spending unless the tax meets three requirements: (1) it must be broad-based (2) uniformly imposed (3) and cannot hold providers harmless from the burden of the tax. Federal regulations create a safe harbor from the hold harmless test for taxes where collections are 6% or less of net patient revenues.

This proposed assessment meets the criteria set out in federal regulations. In doing so, the assessment will result in over \$1.2 billion in funding to support higher reimbursement rates to hospitals. Many of New Mexico's hospitals are in rural counties and residents' quality of life is maintained by supporting healthcare in their communities. The end result of this healthcare provider assessment is investment in healthcare in New Mexico and healthcare workforce development.

Tax & Rev defers to HSD on the impacts this additional funding will have on New Mexico's healthcare system, as well as on aspects of this proposal that will be addressed through HSD rulemaking.

Technical Issues: [Section 6]: The payment due dates appear to create a conflict for revenue flow, if the intention is that the direct payments made in sub-section D, on page 15, on March 15 and May 15 to the hospital or to be paid by the assessment payments due in sub-section A by March 10 and May 10 respectively. Sub-section E reiterates a five-day lag between the due date of assessments by hospitals and payments to hospitals. If the intention is to pay the hospitals the direct payments with the assessment revenue in the Health Care Delivery and Access Fund, then Tax & Rev suggests a 60-day lag to align with revenue processing at Tax & Rev. If that is not the intention, then Tax & Rev suggests that the dates not suggest a relationship between them and that direct payments are clearly disassociated with when the assessment are due.

In addition, Section 6B references a calendar quarter and increases for each quarter, but the rates are calculated annually by the HCA per Section 3. If these are intended to be quarterly payments, making clear that the assessments are made yearly, but payments are spread out over 4 quarters would bring clarity to the bill.

Other Issues: Tax & Rev will proceed with implementing this new tax program to meet the unknown first payment date, which is contingent upon CMS approval.

Administrative & Compliance Impact: This bill proposes the implementation of a new tax program. Tax & Rev will create and publish new forms and publications, make changes to information systems, and may create new regulations. Tax & Rev will test system changes and train employees on the administration of the proposed tax act.

Tax & Rev's Administrative Services Division (ASD) anticipates this bill will take approximately 150 hours for testing, creating new reports and establishing new revenue distributions and 1 additional full-time employee (FTE) to process this new tax program on an on-going basis at a pay band level 70. This will result in \$8.9 thousand in staff workload costs.

The implementation of this bill will result in a significant impact on Tax & Rev's Information

Technology Division (ITD), requiring approximately 9-12 months and incurring costs of approximately \$2,370,136. This cost breakdown includes \$2,139,256 for contractual resources and an additional \$230,880 for staff workload costs. Considering the nature and complexity of the effort needed to implement the proposed changes, a contract with the GenTax vendor, FAST Enterprises, LLC, is necessary. In addition to the contract with FAST, there will be a need for a full-time contract project manager and Independent Verification and Validation (IV&V) contract services would also be necessary. The staff workload costs require 1 state development resource and 1 state business analyst for the project's duration. After implementation, ITD staff resources will provide ongoing operations and support. These recurring staff workload costs encompass 4 FTE ITD staff.

Tax & Rev's Revenue Processing Division (RPD) estimates that implementing this bill requires 9 to 12 months for a dedicated project manager project and one subject matter expert. This will cost \$60,000 in staff workload costs. In addition, a temporary contractual employee will need to be hired to accommodate the shift of staff workloads.

Tax & Rev's Audit and Compliance Division (ACD) will support the development of registration, payments, return, and refund mechanisms for this new program. Adding an interface with the HCA to receive rate information electronically would be ideal to make this process streamlined for all parties. Because this rate and assessment information will be coming from a third party electronically and the taxpayers will be sophisticated businesses, making this an e-file mandated program would reduce cost for administration.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2024	FY2025	FY2026	3 Year Total Cost		
\$8.9	--	--	\$8.9	NR	Tax & Rev – ASD – staff workload
\$2,139	--	--	\$2,139	NR	Tax & Rev - ITD - contractual
\$230.9	--	--	\$230.9	NR	Tax & Rev - ITD - staff workload
--	\$115.4	\$115.4	\$230.8	R	Tax & Rev - ITD – recurring staff workload
\$60	--	--	\$60	NR	Tax & Rev – RPD – staff workload
\$8	--	--	\$8	NR	Tax & Rev – RPD – system updates
\$40	--	--	\$40	NR	Tax & Rev – RPD – contractual staff

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).