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FISCAL IMPACT REPORT

SPONSOR Campos DATE TYPED 3-2-2005 HB _____

SHORT TITLE Government Dietician Gross Receipts SB 999

ANALYST Taylor

REVENUE

| Estimated Revenue | | Subsequent Years Impact | Recurring or Non-Rec | Fund Affected |
|-------------------|--------|-------------------------|----------------------|--------------------|
| FY05 | FY06 | | | |
| | (\$16) | Similar | Recurring | State General Fund |
| | (\$10) | Similar | Recurring | Local Governments |

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
Taxation and Revenue Department (TRD)

SUMMARY

Senate Bill 999 adds dieticians to the list of professional health care providers eligible for a gross receipts tax deduction for services provided to medicare beneficiaries. The deduction is currently provided for services provided by medical doctors, osteopathic physicians and podiatrists.

The bill also provides a deduction for receipts from payments by the U.S. government for medical services provided by a clinical laboratory to medicare beneficiaries.

FISCAL IMPLICATIONS

TRD reports that the fiscal impact of the bill only applies to services provided by dieticians. The provision related to receipts provided by a clinical laboratory addresses a technical issue, and TRD is currently allowing this deduction. Their discussion of this is included in the Other Substantive Issues section of this report.

TRD estimates that the deduction provided to dieticians would reduce general fund revenues by \$16 thousand and local government revenues by \$10 thousand. The department reports that the estimate is based on receipts from dieticians were extracted from the department's "Analysis of Gross Receipts by North American Classification System (NAICS). Assuming an

average state-wide gross receipts rate of 6.6 percent, the implied tax base—the newly deductible dieticians' gross receipts—would be about \$400 thousand.

ADMINISTRATIVE IMPLICATIONS

TRD reports that the administrative implications are minimal and could be absorbed with existing resources.

OTHER SUBSTANTIVE ISSUES

TRD provided this discussion of deduction provided for clinical laboratories.

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 they 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]).

BT/yr