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

SPONSOR Trujillo, J / Pratt/Herrera/ Armstrong, D/Ferrary

ORIGINAL DATE 2/12/19
LAST UPDATED

HB 345

SHORT TITLE Health Practitioner Gross Receipts

SB

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	**FY20**	**FY21**	**FY22**	**FY23**		
$0	$(5,090.0)	$(10,450.3)	$(16,059.3)	$(16,460.7)	Recurring	General Fund (deduction)
$0	$(2,250.3)	$(4,158.1)	$(5,679.9)	$(5,094.2)	Recurring	General Fund (hold harmless payments)
$0	$(7,340.4)	$(14,608.4)	$(21,739.2)	$(21,554.9)	Recurring	**General Fund Total**
$0	$(3,214.8)	$(6,600.2)	$(10,142.7)	$(10,396.3)	Recurring	Local Governments (deduction)
$0	$2,250.3	$4,158.1	$5,679.9	$5,094.2	Recurring	Local Governments (hold harmless payments)
$0	$(964.4)	$(2,442.1)	$(4,462.8)	$(5,302.1)	Recurring	**Local Governments Total**

Parenthesis ( ) indicate revenue decreases

SOURCES OF INFORMATION
LFC Files

NO Responses Received From
Department of Health (DOH)

Responses Received From
Office of Superintendent of Insurance (OSI)
Human Services Department (HSD)

SUMMARY

Synopsis of Bill

House Bill 345 expands the gross receipts tax (GRT) health care practitioner deduction to include receipts for certain copayments and deductibles. These receipts must be from an insured or enrollee to a physician, an osteopath physician, or a podiatrist for commercial contract services pursuant to a health insurance plan or managed care health plan. The receipts may be deducted as follows:

- Prior to July 1, 2020, 33.3 percent
- Between July 1, 2020 and before July 1, 2021, 66.7 percent
- Beginning July 1, 2021, 100 percent

The bill also provides some language cleanup and definitions for new terms introduced by the bill.

The effective date of this bill is July 1, 2019.

FISCAL IMPLICATIONS

This bill narrows the gross receipts tax (GRT) base. See *Significant Issues* for more information.

This bill expands one of the more expensive tax expenditures in the state, creating an additional cost to the state and local governments. Part of the impact to local governments will be mitigated by hold harmless distributions from the state, although this adds to the state's total cost. However, because of the existing, gradual phase-out of hold harmless distributions, this cost to the state will gradually decline, and local governments will gradually witness the entire impact of the loss in the GRT base.

According to the United States Census Bureau, in 2018, the New Mexico population was about 2.1 million. About 35 percent of the state's population is covered by full benefit Medicaid, according to the January 2019 quarterly Medicaid report, and about 9 percent of the population does not have coverage, according to the Kaiser Family Foundation. The remaining portion of the population, or 1.2 million people, had health care coverage that could involve copays and deductible payments impacted by this bill.

Estimated payments of copayments and deductibles in the statewide private market are difficult to find, so the fiscal impact estimates use averages per covered person from the Interagency Benefits Advisory Council (IBAC), which includes the General Services Department, Albuquerque Public Schools, the New Mexico Public School Insurance Authority, and the Retiree Health Care Authority.

In 2016, the average out-of-pocket cost for copays and deductible payments was $583 per insured person annually. This estimate appears reasonable given the close approximation of the average national cost reported in various national publications. Additionally, not all copays and deductible expenses would be for the three types of providers named in the bill. The estimate assumes half of the total would qualify, bringing the per person amount to $291. Multiplying that by the estimated covered population results in potentially $341 million in total expenditures.

The deduction would cost the state up to $14.9 million (plus inflation after FY19) through lost GRT revenue, and the phased-out hold harmless distributions would add to that cost. The cost to local governments would be up to $9.4 million, with part of this cost abated through the hold harmless distributions but fading over time.

The phased-in deduction may result in limited instances of payments falling into the next fiscal year that might otherwise fall in the prior year. If this happens to payments shifting from FY20 to FY21, this would double the deduction the company could take on those receipts and would not interfere with the insureds' or enrollees' insurance or health plans because the payments would still be within the calendar year or plan year. This could represent a possible downside risk of greater fiscal impact.

This bill creates or expands a tax expenditure with a cost that is difficult to determine but likely significant. LFC has serious concerns about the significant risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting, targeting, and reporting or be held for future consideration.

This bill may be counter to the LFC tax policy principles of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

SIGNIFICANT ISSUES

This bill narrows the gross receipts tax (GRT) base. Many of the efforts over the last few years to reform New Mexico's taxes focused on broadening the GRT base and lowering the rates. Narrowing the base leads to continually rising GRT rates, increasing volatility in the state's largest general fund revenue source. Higher rates compound tax pyramiding issues and force consumers and businesses to pay higher taxes on all other purchases without an exemption, deduction, or credit.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

TECHNICAL ISSUES

This deduction does not contain a delayed repeal date. LFC recommends adding a delayed repeal date.

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

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions “but for” the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure Policy Principle	Met?	Comments
Vetted	✘	
Targeted		
Clearly stated purpose	✘	
Long-term goals	✘	
Measurable targets	✘	
Transparent	✓	
Accountable		
Public analysis	✘	
Expiration date	✘	
Effective		
Fulfills stated purpose	?	
Passes “but for” test	?	
Efficient	?	
Key: ✓ Met ✘ Not Met ? Unclear		

JC/sb/gb