FISCAL IMPACT REPORT

		LAST UPDATED	2/10/25
SPONSOR	Chávez	**ORIGINAL DATE**	1/24/25
SHORT TITLE	Real Property From Health- Related Equipment	**BILL NUMBER**	House Bill 46
		ANALYST	Graeser

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Property Tax	$0	$0	$250.0	$500.0	$750.0	Recurring	Local Governments
			$20.0	$20.0	$20.0	Recurring	General Obligation Bond Fund
Medicaid & Health Care Quality Reimbursements	$0	$0	At least $1,000.0	At least $1,000.0	At least $1,000.0	Recurring	Medicaid & Health Care Quality Reimbursement

Parentheses ( ) indicate revenue decreases.
*Amounts reflect the most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
HCA	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund
TRD/PTD	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund
NMHELC	No fiscal impact	Up to $1,000	Up to $1,000	Up to $2,000	Recurring	Program Funds
Total	No fiscal impact	Up to $1,000	Up to $1,000	Up to $2,000		

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect the most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Health Care Authority (HCA)
New Mexico Attorney General (NMAG)
Taxation and Revenue Department (TRD)

Agency Analysis was Solicited but Not Received From
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of House Bill 46

House Bill 46 (HB46) amends two sections of the Hospital Equipment Loan Act (HELA) (58-23-

1 through 58-23-32 NMSA 1978). The first removes real property from the definition of "health-related equipment," preventing the New Mexico Hospital Equipment Loan Council (NMHELC) from issuing bonds under the HELA "for the financing or refinancing of all or any part of the cost of" real property. The second section prospectively removes the property tax exemption for real property purchased, acquired, leased, financed, or refinanced with bonds issued under HELA before the effective date of July 1, 2025, if that real property is sold or refinanced after July 1, 2025.

The effective date of this bill is July 1, 2025. The prospective denial of property tax exemptions if and when the real property is sold or refinanced would first apply for the 2026 property tax year.

FISCAL IMPLICATIONS

The fiscal impacts of the provisions of this bill are two-fold: (1) the impact on current real property constructed with HELA bonds which retain the property tax exemption unless and until the property is sold or refinanced; and (2) prospective denial of property tax exemption for real property purchased with HELA bonds. Determining the fiscal impact of HB46 is complicated by the fact that 7-36-3 C NMSA 1978 continues the exemption and non-profit hospitals will retain property tax exemption pursuant to the Constitutional exemption for charitable institutions. (Article VIII, Section 3).

Since 1985, NMHELC has issued over $2.9 billion in revenue bonds. This has recently averaged about $100 million per year. Pursuant to information generated by the Taxation and Revenue Department (TRD), the fiscal impact assumes 75 percent of HELA bonds were spent for real property construction, although that percentage could be close to 100 percent, since most of the bonds are 30-year bonds and significantly longer term than implicit in the limited life of medical equipment.

Past HELOC Financing 1989-2024	
Haverland Carter Series 2022	$30,540,000
San Juan Regional Medical Center Series 2022	$20,000,000
San Juan Regional Medical Center, Series 2020	$36,175,000
Presbyterian Healthcare Services, Series 2019	$304,245,000
Haverland Carter Lifestyle Group, Series 2019	$112,590,000
Presbyterian Healthcare Services, Series 2017	$304,780,000
San Juan Regional Medical Center, Series 2017	$30,115,000
Presbyterian Healthcare Services, Series 2015	$237,160,000
Haverland Carter Lifestyle Group, Series 2012	$42,525,000
Roswell Regional Medical Center, Series 2012	$30,000,000
Gerald Champion Regional Medical Center, Series 2012	$71,745,000
Presbyterian Healthcare Services, Series 2012	$75,000,000
Lovelace Heart Hospital, Series 2011	$50,000,000
San Juan Regional Medical Center, Series 2010	$34,609,000
LaVida Llena, Series 2010	$63,885,000
Presbyterian Healthcare Services, Series 2009	$135,000,000
Lovelace Respiratory Research Institute, Series 2009	$11,000,000
Presbyterian Healthcare Services, Series 2008	$388,000,000
Lovelace Women's Hospital, Series 2007	$15,000,000
Rehoboth McKinley Christian Health Care Services, Series 2007	$7,600,000
St. Vincent Regional Medical Center, Series 2005	$23,540,000
Presbyterian Healthcare Services, Series 2005	$204,960,000
Lovelace Respiratory Research Institute, Series 2004	$5,000,000
Presbyterian Healthcare Services, Series 2004	$147,485,000
St. Vincent Hospital, Series 2003	$14,500,000

Rehoboth McKinley Christian Health Care Services Loan, Series 2002	$4,900,000
Covenant Health System Helicopter Lease, Series 2002	$4,615,445
Presbyterian Healthcare Services, 2001 Series A	$195,675,000
Memorial Medical Center, Lease Purchase Agreement, 2001	$2,745,000
St. Vincent Hospital, Master Financing Agreement, 2001	$5,000,000
Presbyterian Healthcare Services, 2000 Series A	$37,000,000
Dialysis Clinics, Inc., Series 2000	$5,000,000
Variable Rate Demand Revenue Bonds (Pooled Loan Program), 2000 Series A	$85,000,000
Rehoboth McKinley Christian Health Care Services	$4,900,000
Rehoboth McKinley Christian Health Care Services, Lease Purchase Agreement, Series 1999	$3,967,595
Memorial Medical Center, Series 1998	$44,995,000
Catholic Health Initiatives, Series 1997 A	$44,410,000
San Juan Regional Medical Center, Series 1996	$7,550,000
Memorial General Hospital, Series 1996	$18,010,000
Rehoboth McKinley Christian Hospital, Series 1996	$5,690,000
San Juan Regional Medical Center, Series 1991	$7,504,946
NMHELC Variable Rate Weekly Demand Hospital Equipment & Improvement Revenue Bonds, Series 1989	$35,000,000
Memorial General Hospital	$929,377
Rehoboth McKinley Christian Hospital	$1,850,000
St. Vincent Hospital	$3,097,925
Memorial General Hospital	$3,100,000
San Juan Regional Medical Center	$4,055,000
Memorial General Hospital	$2,199,928
Northeastern Regional Hospital	$152,432
NMHELC Variable Rate Weekly Demand Hospital Equipment & Improvement Revenue Bonds, Series 1985	$18,850,000
Presbyterian Medical Services	$700,000
St. Vincent Hospital	$1,091,986
Northeastern Regional Hospital	$156,345
St. Vincent Hospital	$1,102,393
Valencia	$637,000
SCHS Psychiatric	$460,000
St. Mary's Hospital	$977,564
Memorial General Hospital	$4,232,586
SCHS Clovis	$2,284,000
Northeastern Regional Hospital	$350,000
Total 1989-2024	**$2,953,643,522**

TRD provides input and analysis:

TRD assumes that the technical issue removing the exemption in the Property Tax Act will be completed (See Technical Issues). Based on data from the New Mexico Hospital Equipment Loan Council TRD aggregated past financings for private healthcare facilities. TRD assumed 75 percent of the financing was used for financing real property that is no longer tax exempt. Per discussions with the council, the 75 percent was assumed due to the majority of financing being put towards construction and refinancing. With the aggregated amount, TRD applied 1/3 for the taxable value and then applied the 2023 weighted mill rate by county according to the 2023 New Mexico Property Tax Facts published by New Mexico Department of Finance and Administration. TRD arrives at an estimated increase in property tax revenue of approximately $2.8 million. Of the $2.8 million, TRD assumes that 25 percent may be refinanced and thus subject to property tax. This assumes that some facilities will need to be refinanced under the Hospital Equipment Loan Act but that the majority do not need to be refinanced or they will find it non-advantageous under this Act to do so. Local impacts of the legislation proposed in this bill will vary by those counties with private facilities and the local trends in property values, but the net fiscal impact for taxing districts will be zero as it assumed the tax liability will be lowered for other taxpayers. There is an assumed 2.5 percent impact to the state General Obligation Bond (GOB) fund, which is used to make debt service payments on State GOBs.

The HELA program provides revenue bonds as an instrumentality of the state. These bonds are federally and state income tax exempt and therefore carry lower interest rates than commercial financing. The council owns the real property and equipment purchased or constructed with the HELA bonds. The council leases the real property and equipment to the hospital. This leasehold interest creates a taxable leasehold. Complicating this analysis in this case is that most of the $2.9 billion in HELA bonds have been provided to exempt hospital entities.

LFC notes that the provisions of this bill will increase hospital costs. This may be because of the imposition of property tax or denying access to low-cost financing. These increased costs will be passed forward to the hospitals.

HCA points out:

> If hospitals would need to pay property taxes on these assets, there would be an increase in their costs, which would be reported on the hospital cost report. These are generally allowable costs, and hospitals would be reimbursed for costs if the hospitals are cost settled, or if the cost report is used in a hospital re-base.

For the purpose of yield control (7-37-7 NMSA 1978), the new value in each jurisdiction was considered net new value and there will not be any change in yield-controlled rates.

SIGNIFICANT ISSUES

The major effect of these provisions will be to deny all hospitals this pathway to financing expansion. The property tax and gross receipts tax consequences may be less consequential. Real property previously purchased or constructed with HELA bond financing prior to July 1, 2025, will retain the property tax exemption pursuant to 7-36-3 C NMSA but the exemption in 58-23-29 NMSA is repealed if and when the property is sold or refinanced.

The principal intent of this bill may be to conform this program to the constitutional premise that the Legislature may enact property tax exemptions for personal property, but not real property. The Legislature may not create property tax exemptions for real property unless a constitutional amendment has been passed by the voters allowing such exemption.

HB46 leaves intact a provision in state law (58-23-5 NMSA 1978) that calls for NMHELC to be treated as a state agency under a section of the state constitution that exempts state entities from property taxes: "… the council is a state agency and instrumentality for the purposes of Article VIII, Section 3, of the constitution of New Mexico." As a result, it is not clear a property tax could be imposed.

In addition, the New Mexico Attorney General (NMAG) notes HB46 may conflict with the provisions of Section 7-36-3 NMSA 1978, which was amended through the same legislation that added real property to HELA's definition of "health-related equipment."

> Property interests of a participating health facility in health-related equipment purchased, acquired, leased, financed or refinanced with the proceeds of bonds issued under [HELA] are exempt from property taxation for as long as the participating health facility remains liable for any amount under any lease, loan or other agreement securing the bonds, but not to exceed thirty years from the date the

bonds were issued for the health-related equipment.

HB46 also leaves this section of law intact.

Without the ability to finance real property, the need and purpose of HELC becomes moot. Hospitals would lose access to low-cost financing and hospital costs would increase.

OTHER SIGNIFICANT ISSUES

NMAG notes HB46's provisions are prospective: The bill would likely be construed as a prospective—not retroactive—tax. The bill's language limits the removal of the property tax exemption to the period after its effective date. Thus, the bill merely "imposes a present tax which is measured by an antecedent fact." *See Hansman v. Bernalillo Cty. Assessor*, 1980-NMCA-088, 20-21, 95 N.M. 697. Accordingly, the bill would not impair vested rights and need not be analyzed for any due process implications that a retroactive tax scheme may involve.

TECHNICAL ISSUES

NMAG and TRD recommend the sponsor consider amending Section 7-36-3(C) NMSA 1978 to reflect the amendments proposed to Section 58-23-29(B) NMSA 1978 to ensure consistency and address potential conflicts within state law. TRD further explains this point.

> While this bill removes the exemption after July 1, 2025 for real property from proceeds of bonds issued pursuant to the Hospital Equipment Load Act under 58-23-29 NMSA 1978 which falls under the Hospital Equipment Loan Act, the bill does not remove the same exemption under 7-36-3.C NMSA 1978 which exempts under the Property Tax code. A parallel amendment must be made to 7-36-3.C NMSA 1978 to bring this real property into the tax base.

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