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

SPONSOR Jennings **ORIGINAL DATE** 2/19/07 **LAST UPDATED** **HB**

SHORT TITLE Health Care Clinical Lab Gross Receipts **SB** 893

ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	**FY08**	**FY09**		
	(*See Narrative)		Recurring	General Fund
	(*See Narrative)		Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates HB 987
Conflicts with HB 684, HB 797, HB 683, HB 23, SB 161, S 326

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Health (DOH)
Health Policy Commission (HPC)

No Response Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 893 makes several changes to Section 7-9-93 NMSA 1978, the medical services gross receipts tax deduction enacted in 2004. The bill expands the list of health practitioners who receive the gross receipts tax deduction for receipts from managed care providers, commercial health insurers and Medicare part C to include accredited clinical laboratories that are not located in a physician's office or hospital. Clinical laboratories were not included in 2004 legislation that made many other health provider receipts deductible from gross receipts tax.

The bill also expands the deduction so that it will apply to receipts from co-payments or deductibles paid by an insured person to a health practitioner.

The effective date of the provisions in this bill is July 1, 2007.

FISCAL IMPLICATIONS

Based on the Report 80, TRD believes taxable gross receipts for clinical labs not located in a physician's office or a hospital will be $54 million in FY08. Based on information from the federal Centers for Medicaid and Medicare Services (CMS) and from industry representatives, about 75 percent of that total comes from facilities not associated with physicians' offices or hospitals, and about 25 percent of these receipts come from managed care insurers. Therefore, the fiscal impact to the general fund from the amendments to Section 7-9-93 NMSA 1978 is estimated to be $668.3 thousand in FY08 ($54 million X 75 percent X 25 percent eligible receipts X 6.6 percent statewide tax rate). This $668.3 thousand estimate includes the direct impact of making these clinical laboratory receipts deductible, as well as the impact of holding local governments harmless from the new deductions.

At the time of this analysis, TRD had not provided analysis of the revenue reduction that will result from expanding the deduction in 7-9-93 to include co-payments and deductibles.

SIGNIFICANT ISSUES

Proponents of this legislation note that recruitment and retention of health providers has been difficult in New Mexico because of the gross receipts tax. Economic theory suggests that a shortage of healthcare labor will push healthcare wages, and therefore healthcare costs higher. Although much of this problem was addressed in 2004 when Section 7-9-93 NMSA 1978 was enacted, some healthcare practitioners in New Mexico still pay gross receipts tax, while their counterparts in most other states do not. Unlike many businesses that are subject to gross receipts tax but pass the tax on to consumers, many health providers cannot pass the tax on because managed care organizations and Medicare refuse to pay the tax.

LFC notes that while individual deductions from the gross receipts tax may have small fiscal impacts, their cumulative effect significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue.

LFC notes that receipts of health practitioners have historically grown faster than receipts of other industries. Removing receipts from high-growth sectors from the gross receipts tax base makes it more difficult for tax revenue to keep pace with inflation.

ADMINISTRATIVE IMPLICATIONS

The bill will have a moderate administrative impact on TRD. The department will recode systems, revise instructions and forms, prepare taxpayer education materials, and train personnel. These changes can be accomplished with existing resources.

DUPLICATION, CONFLICT

Senate Bill 893 duplicates House Bill 987.

Senate Bill 893 conflicts with Senate Bill 684 and House Bill 797. These bills contain identical provisions pertaining to clinical labs but do not expand Section 7-9-93 NMSA 1978 to include receipts from deductibles and co-payments.

Senate Bill 893 conflicts with House Bill 638, which contains the same provisions regarding clinical labs but also makes amendments to Section 7-9-77.1 to expand a gross receipts tax deduction for the receipts of certain health care practitioners from third-party administrators of Medicare and the federal TRICARE program to include several additional practitioner classes.

HPC believes that page 5, line 13 of Senate Bill 893 conflicts with Senate Bill 161, House Bill 23, and Senate Bill 326. These bills provide a phased-in gross receipts tax deduction for receipts of for-profit hospitals. Senate Bill 893 would provide an additional deduction for receipts of clinical laboratories located in hospitals.

TECHNICAL ISSUES

TRD notes that Section 7-9-93 might not be the right location for the clinical laboratory deduction proposed in this bill because it adds clinical laboratories to the list of health *practitioners.* However, clinical laboratories are defined as health *facilities* under 42 U.S.C. Section 263a.

HPC notes that receipts of a clinical laboratory in a free-standing clinic or anatomical laboratory owned by a pathologist will not receive the clinical laboratories gross receipts tax deduction created in the bill. If this is not the intent of the bill, HPC recommends deleting the words, “in a physician’s office or” on page 9, line 22.

SS/mt